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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.

WASHINGTON, DC

WHEN: July 11; at 9 am.

WHERE: Office of the Federal Register,
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RESERVATIONS: Abram Primus 202-523-3419
Ina Masters 202-523-3419

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WHEN: July 22; at 1:30 pm.

WHERE: North Auditorium,
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SAN FRANCISCO, CA

WHEN: July 24; at 1:30 pm.

WHERE: Room 2007, Federal Building,
450 Golden Gate Avenue,
San Francisco, CA.

RESERVATIONS: Call the San Francisco Federal Information Center, 415-556-6600

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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

Food and Nutrition Service

7 CFR Parts 210, 225, and 226

[Amdts. 65, 8, and 13 respectively]

Meat Alternates Used in Child Nutrition Programs

Correction

In FR Doc. 86–10225 beginning on page 16807 in the issue of Wednesday, May 7, 1986, make the following corrections:

1. On page 16807, in the first column, the agency docket numbers were omitted from the heading and should have read as set forth above.

§ 210.10 [Corrected]

2. On page 16809, in the third column, in § 210.10(a)(2)(ii)(A)(*2*), in the tenth line, "and" should read "as".

3. On page 16810, in § 210.10(a)(3), in the table, in the second column, in the first line, "skin" should read "skim", and in the ninth line, "of tree" should read "or tree". In footnote 3 to the table, "Free" should read "Tree".

§ 225.20 [Corrected]

4. On the same page, in § 225.20(b)(2), in the table, under the heading "Bread and Bread Alternates", in the seventh line, "of" should read "or". In footnote 4 to the table, "of more" should read "or more".

§ 226.20 [Corrected]

5. On page 16811, in the third column, in § 226.20(a)(2)(ii)(B), in the third line, "meet" should read "meat".

6. On the same page, in § 226.20(c)(2), in the table, in the first column, under the heading "Bread and Bread Alternates", in the fifth line, "paste" should read "pasta". In the next entry in the table, "Cooked cereal grains", the entries in the second, third, and fourth columns should read as follows:

Age 1 up to 3: "¼ cup"
Age 3 up to 6: "¼ cup"
Age 6 up to 12: "½ cup"

7. On page 16812, in § 226.20(c)(3), in the table, in the heading of the fourth column, insert footnote reference "1" after the heading "Age 6 up to 12".

BILLING CODE 1505-01-M

7 CFR Parts 250 and 252

Food Distribution Program; National Commodity Processing Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule will extend the National Commodity Processing (NCP) Program until June 30, 1987. NCP was established in the June 23, 1983 rule and extended until June 30, 1986 in the September 12, 1985 interim rule. This action will promote a regular supply of processed end products to eligible recipient agencies for the 1986–87 agreement year. This interim rule will address comments and incorporate amendments included in the February 4, 1986 proposed rule.

The February 4, 1986 rule proposed amendments designed to: (1) Increase uniformity of regulations governing State processing activities and those covering NCP and (2) increase NCP program accountability requirements to ensure program integrity.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Alberta Frost, Director, Nutrition and Technical Services Division, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3585.

SUPPLEMENTARY INFORMATION: Under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), information collection requirements contained in §§ 252.4, 252.5, and 252.6 of this proposed rule have been approved by the Office of Management and Budget (OMB #2584–0325); approved for use through August 31, 1988.

Classification

This action has been reviewed under Executive Order 12291 and has been classified not major. We anticipate that this proposal will not have an impact on the economy of more than $100 million. No major increase in costs or prices for program participants, individual industries, Federal, State or local government agencies, or geographic regions is anticipated. The action is not expected to have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.550. For the reasons set forth in the Final Rule related Notice to 7 CFR 3015, Subject V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This action has also been reviewed with regard to the requirements of Pub. L. 96–354, The Regulatory Flexibility Act. Robert E. Leard, Administrator of FNS, has certified that this rule will not have a significant economic impact on a substantial number of small entities. This action will ensure the availability of processed surplus commodities to eligible recipient agencies. The eligible recipient agencies include all outlets eligible for commodities under Parts 250 and 251.

Background

On June 23, 1983, the Department published interim regulations (48 FR 28609) which set forth a framework for the NCP Program. In part, the regulations were issued to satisfy the dictates of § 203 of the Temporary Emergency Food Assistance Act (TEFAA) (7 U.S.C. 612c note) which directed the Secretary to encourage the consumption of commodities made available without charge or credit under any nutrition program administered by the Secretary of Agriculture through processing agreements with private companies. Public comments were solicited concerning those interim regulations and all phases of program operation.

Under the 1983 interim rule, FNS entered into agreements with processors to convert donated commodities into end products desired by recipient agencies. Under those agreements, processors were permitted to market the end products nationwide to any recipient agency eligible to receive the

specified commodity used in the end product. Dairy commodities and honey were made available under the NCP Program.

On May 13, 1985, the Department published a notice (50 FR 19993) announcing that the NCP Program would end on June 30, 1985, because the NCP Program had not achieved its stated goals. Subsequently, Congress extended Section 203 of the Temporary Emergency Food Assistance Act through September 1986. The Department implemented this directive by reauthorizing the NCP Program for one additional year in an interim rule published September 12, 1985. Those interim regulations expire on June 30, 1986. Subsequent legislation, the Food Security Act of 1985, Pub. L. 99–198, further extended Section 203 of the Temporary Emergency Food Assistance Act through June 30, 1987. The Department has decided therefore to reauthorize the NCP Program through June 30, 1987 and is publishing these interim rules to accomplish the extension.

On February 4, 1986, the Department published a proposed rule which contained four amendments to the September 12, 1985 NCP interim rule. Public comments to the proposed rule were solicited. Public comments to the proposed rule have been received and analyzed. The changes have been incorporated in this interim rule extension. A determination has been made that the public interest would be best served by issuing this rule as an interim rule, effective July 1, 1986, in order to avoid program disruption and continue the flow of commodities to processing companies and recipient agencies.

The current 7 CFR Part 252 expires on June 30, 1986. FNS is reprinting the entire interim rule for this extension, incorporating the changes proposed on February 4, 1986 and updating language to make it consistent with that contained in 7 CFR Part 250, the Food Distribution Program regulations.

Discussion of Proposed Rules

Following is a description of the proposed rule published February 4, 1986 and a discussion of public comments. During the public comment period, 69 comments were received. The proposed rule announced our intention to amend the NCP interim regulations by: (1) Requiring processors to verify 100 percent of reported discount sales through distributors without dual billing; (2) limiting the allowable discount through distributor value pass-through system to one specific system; (3) requiring all processors participating in NCP to obtain an annual audit of NCP activities; and (4) amending the Part 250 regulations by requiring State agencies to verify that recipient agencies registered to participate in NCP are eligible to receive donated food.

Sales Verification

The September 12 interim rule requires processors to verify a statistically valid sample of sales made through a distributor without dual billing. Results of FNS sales verifications and on-site reviews have indicated a high degree of inaccurate or invalid sales reported to FNS, often the result of inaccurate reporting by distributors. Under the February 4, 1986 proposed rule, processors would be required to verify 100 percent of all reported discount sales made through a distributor without dual billing. Of 20 comments received, 13 commentors opposed the proposal because of the time and labor costs to processors. Many said processors would discontinue discount sales made through a distributor without dual billing if the requirements of the interim rule were the same as the proposal. In response to these concerns § 252.4(c)(ii)(B) of the interim regulations maintains the current requirement that processors must verify a statistically valid sampling of all sales reported each quarter. Language has been added to require that the sample size shall have a 95 percent confidence level. The verification effort must determine whether NCP end products were sold to eligible recipient agencies and if the value of the donated commodities was passed on to the recipient agency. Sales verification must be done at the end of each quarter and the sample shall be taken from all sales reported within the quarter. Processors must report to FNS the level of invalid or inaccurate sales for each quarter and must simultaneously submit a corrective action plan to correct problems identified in the verification effort. The processor must also immediately submit adjusted monthly performance reports to eliminate invalid sales. If FNS determines that end products have been improperly distributed, FNS may assert a claim against the processor.

Value Pass Through

Section 252.4(c)(4) of the September 12, 1985 interim rule requires that processors return the agreement value of the donated commodity contained in processed products to the purchasing recipient agency. At the time of agreement approval, FNS reviews and approves the method selected by the processor for returning the value of the donated commodity in the end product to the recipient agency. The processor may choose a system which either: (1) Reduces the market price of a processed end product by the value of the donated food contained in the product (discount); or (2) refunds to the recipient agency the value of the donated food contained in the end product (refund). Under the current rule, FNS may approve any other value return system developed by the processor if the system ensures proper accountability.

Section 252.4(c)(4) of the September 12, 1985 interim regulation describes the varieties of value pass-through systems permitted in the NCP Program. These include: (1) Direct sale with discount; (2) direct sale with refund; (3) indirect sale through distributor with dual billing (under the dual billing system, the processor invoices the recipient agency directly for the end products purchased and the distributor bills the recipient agency for delivery of the end product); (4) indirect sale through distributor without dual billing and (5) indirect sale through distributor with a refund.

Based on on-site processor reviews, Office of Inspector General (OIG) audits and FNS sales verification results, FNS proposed in the February 5 proposal to impose certain conditions on discount sales through distibutors without dual billing. Under the proposal, processors using this system would be required to sell end products to distributors at the processor's commercial or gross price for the end product. The processor's invoice would reflect the value of commodities contained in the end product as established by the agreement. The processor would ensure that the distributor invoices the recipient agency at a price which reflects the value of the discount established by the agreement. The processor would ensure that the distributor submits a refund application to the processor within 30 days after the eligible recipient agency receives the processed end product. The processor would also ensure that the refund application includes certification of the purchase of end products by the eligible recipient agency through substantiating invoices and that the recipient agency has purchased the end products at the net case price which reflects the value of the discount established by the agreement. Within 30 days of the receipt of the refund application, the processor would issue payment directly to the distributor in an amount equal to the stated agreement value of the donated food contained in the purchased end products covered by the application. In no event could refund applications for purchases during the period of

agreement be accepted by the processor later than 60 days after the close of the agreement period. FNS received 52 comments on this proposal. Of these, 43 commentors opposed the requirement. Those opposed said the delay in time between when the sale is made to the recipient agency and when the distributor received the refund from the processor would be costly to the distributor. The proposal was described as a "paperwork nightmare", "impossible" and "not practical." It was also criticized as causing higher prices for recipient agencies if implemented. Supporters said the change would ensure greater accountability.

The proposed change is intended to strengthen program accountability and ensure that eligible recipient agencies receive the full value of the commodities contained in the end products. The proposed change was also intended to address major program weaknesses disclosed during a national audit conducted by the OIG (Food Distribution Program, Evaluation of Food Processors and the National Commodity Processing System, Audit Report No. 27651–1–CH). The need for improvements in the allowable commodity value passthrough systems was a major audit finding. Specifically, the audit revealed that the refund system permits processors to enjoy an advantage because the processor receives the full price for the product and does not pay the refund equal to the value of the donated food until the refund application is submitted. Thus, the processor receives the benefit of a "float" created by the refund processing time. To address this problem in the context of the sale through distributor without dual billing, the Department believes that refund applications must be submitted and paid expeditiously. The 30 day application and payment timeframes of the proposed rule will ensure that refunds are expeditiously paid.

Also, the proposed change will ensure that an accountable audit trail is created by these sales. Therefore, the interim rule contains the requirement that the processor ensure that the distributor invoices the recipient agency at a price which reflects the value of the discount provided to the eligible recipient agency and that copies of that invoice accompany the refund application. The Department believes these refinements in the requirements for a sale through distributor without dual billing are necessary to ensure that the value of the donated food is passed to the recipient agency and that refunds are expeditiously handled. These new requirements are found in § 252.4(c)(4)(ii)(B) of the interim rule.

Based on these considerations, the Department is maintaining the requirement as it was proposed in the February 4, 1986 rule. This system will provide for more equitable distribution of the reporting burden between processors, distributors and recipient agencies. It will also strengthen program accountability by creating a clearer and more acceptable audit trail. This system is identical with that required in Part 250.15(e), the Food Distribution Program Regulations.

Audit Requirement

Section 252.4(c)(17) of the proposed rule would require all NCP processors to obtain an audit by an independent certified public accountant (CPA) at the end of each agreement year. Because it is not feasible for the Department to conduct on-site reviews or audits of all processors participating in the NCP Program, the Department proposed a requirement that processors obtain an annual audit by an independent certified public accountant. The audits would be conducted in accordance with financial and compliance elements of Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States. In addition, FNS would develop audit guidelines for use by auditors to ensure that these audits are of sufficient scope to include a thorough review of program requirements. FNS will also be responsible for providing training for auditors in accordance with requirements prescribed by the Secretary on the use of these guidelines. The proposal also required that all costs associated with CPA audits, including travel expenses to attend any FNS training sessions, would be borne by the processor. Seven commentors opposed the proposal, generally on grounds of cost. They also objected to the requirement that processors pay for FNS audit training. Nine commentors agreed with the proposal but questioned the annual requirement. Their concern was that the audit provisions should be identical to those required in 7 CFR Part 250, which governs State processing programs.

The Part 250 regulations require processors to conduct audits every one, two or three years, depending on the value of donated food received each year. Processors with food orders over $250,000 per year must have an annual audit. Those between $75,000 and $250,000 must have one every 2 years. Those under $75,000 must have one every 3 years. Because the NCP Program and the Part 252 regulations expire on June 30, 1987, processors receiving donated food valued at less than $250,000 during the agreement year ending June 30, 1987 would not be affected by the audit requirements contained in this part. Based upon comments received, the Department determined that the original annual audit requirement for all NCP processors was too stringent. The Department also believes the requirements of 7 CFR Part 250 would be sufficient to ensure program accountability. Therefore, § 252.4(c)(17) of the proposed rule is being amended to conform with the requirement contained in Section 250.15(t) of the Food Distribution Program regulations. During the 1986–87 agreement year, only processors receiving donated food valued in excess of $250,000 will be required to obtain an audit. The requirement that processors pay for FNS audit training is also eliminated. Audits will be conducted in accordance with Uniform Federal Assistance Regulations and the FNS Audit Guide for Multi-State Processors, requiring no additional FNS training.

Verification of Recipient Agency Masterfile

During the first three years of NCP, the Department has solicited the cooperation of State distributing agencies in verifying the NCP recipient agency masterfile. The voluntary recipient agency masterfile verification was extremely useful and enabled the Department to eliminate a significant number of ineligible recipient agencies from the masterfile. Some States, however, refused to verify the NCP masterfile so FNS has never had complete assurance that all registered recipient agencies were eligible to participate in the program. Since the recipient agency masterfile is supplied to each NCP processor, FNS must ensure that this list is as accurate as possible to maintain program integrity. To ensure the accuracy of the entire recipient agency masterfile, the Department proposed a requirement in section 250.11 that State distributing agencies verify the NCP recipient agency masterfile for recipient agencies registered in their State. Some options offered under the proposal to accomplish this task included: (1) State agencies verifying that recipient agencies listed on the NCP masterfile have a current agreement with the State under Part 250.8 and Part 251.5; (2) State agencies signing off on the recipient agency registration card prior to submission to FNS; and (3) recipient agencies submitting a copy of their approved current State agency

agreement to receive donated food with the NCP registration card.

Of the 21 comments received on this subject, 19 supported the requirement. The requirement presents no undue hardships to State agencies who also agreed that State verification of the masterfile is necessary to ensure the integrity of the program. For these reasons, the proposal has been incorporated into the final regulations as originally proposed.

Bonding/Inventory Protection

Section 252.4(c)(5) of this rule retains the requirement that processors obtain a performance supply and surety bond or an irrevocable letter of credit sufficient to protect the contract value of all donated foods.

At a minimum, letters of credit must remain in effect for a reasonable period after the end of the contract period. This is necessary to ensure that protection is available in the situation where commodity losses are not discovered until after the end of the contract period.

FNS Sales Verification

Section 252.6(c) of the February 4, 1986 proposed rule notified NCP participants that FNS may conduct a verification of processor reported sales utilizing a statistically valid sampling technique. The June 17, 1983 and the September 12, 1985 interim rules did not contain a provision for FNS to conduct a sales verification of processor reported sales. However, FNS has conducted two separate sales verifications since the program began in 1983. The Department believes these verification efforts are essential to ensure program integrity and accountability and to ensure processors' compliance with the terms and conditions of the NCP agreement. No comments were received relative to this proposal.

Section 252.6(c) of this regulation retains the provision that, as part of an ongoing effort to ensure program accountability, FNS will continue monitoring processor reported sales under the NCP Program and may conduct a sales verification of processor reported sales. Section 252.6(c) of this regulation is being amended to clarify that FNS will continue to verify processor reported sales in order to ensure program integrity. These verification efforts will utilize statistically valid samples to determine the level of inaccurate or invalid sales. Based upon the results, FNS may project claims as necessary.

Monthly Performance Report

The terminology for the processor's "monthly activity report" in which the processor reports sales of products and donated food receipt and use has been changed to "monthly performance report." Also, two items of information which are routinely reported by processors on the current monthly activity report but which were not stated in the September 12 interim rule have been added to § 252.4(c)(9)(i) of this interim rule. The required items of information in the report include whether sales were made under a refund or discount system and the amount of donated food represented by reported sales.

Refund Payments

Sections 252.4(c)(4)(i)(B), 252.4(c)(4)(ii)(B), and 252.4(c)(4)(ii)(c) require that when end products are sold under the refund system, recipient agencies and distributors must submit refund applications within 30 days of the date of purchase of the end products in order to receive benefits. The processor must make payment to the recipient agencies and distributors within 30 days of receipt of the application. These timeframes are inconsistent with the final regulations amending Part 250 being published concurrently with this rule which require submission of the refund applications within 60 days and payment by the processor within 10 days.

The Department intends to publish a proposed rulemaking to solicit comments so as to establish consistency between Part 250 and the NCP Program.

List of Subjects in 7 CFR Parts 250 and 252

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs-social programs, Infant and children, Price support programs, Reporting requirements, School breakfast and lunch programs, Surplus agricultural commodities.

Accordingly, Parts 250 and 252 are amended as follows:

PART 250—FOOD DISTRIBUTION PROGRAM

1. The authority citation for Part 250 continues to read as follows:

Authority: Sec. 32, Pub. L. 74–320, 49 Stat. 744 (7 U.S.C. 612c); Pub. L. 75–165, 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, 60 Stat. 231, 233, Pub. L. 79–396 (42 U.S.C. 1755, 1758); sec. 416, Pub. L. 81–439, 63 Stat. 1058 (7 U.S.C. 1431); sec. 402, Pub. L. 91–665, 68 Stat. 843 (22 U.S.C. 1922); sec. 210, Pub. L. 84–540, 70 Stat. 202 (7 U.S.C. 1859); Sec. 9, Pub. L 85–931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86–756, 74 Stat. 899 (7 U.S.C. 1431 nt); sec. 709, Pub. L. 89–321, 79 Stat. 1212 (7 U.S.C. 1446a–1); sec. 3, Pub. L. 90–302, 82 Stat. 117 (42 U.S.C. 1761); secs. 409, 410, Pub. L. 93–288, 88 Stat. 157 (42 U.S.C. 5179, 5180); sec. 2, Pub. L. 93–326, 88 Stat. 286 (42 U.S.C. 1762a); sec. 16, Pub. L 94–105, 89 Stat. 522 (42 U.S.C. 1766); sec. 1304 (a), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 613c nt); sec. 311, Pub. L. 95–478, 92 Stat. 1533 (42 U.S.C. 3030a); sec. 10, Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760); (5 U.S.C. 301), unless otherwise noted.

2. Section 250.11, previously reserved, is added as follows:

§ 250.11 Eligibility determination for recipient agencies and recipients.

Verification of recipient agency eligibility. State distributing agencies at the request of FNS shall (a) verify that recipient agencies registered to participate in the National Commodity Processing (NCP) Program have a current agreement with the State agency to receive donated food in accordance with Part 252.1 (c) and (b) State agencies shall report the results of such verification to FNS within timeframes determined by FNS.

3. Part 252 is revised to read as follows:

PART 252—NATIONAL COMMODITY PROCESSING PROGRAM

Sec.

252.1 Purpose and scope.
252.2 Definitions.
252.3 Administration.
252.4 Application to participate and agreement.
252.5 Recipient agency responsibilities.
252.6 Miscellaneous provisions.
252.7 OMB Control Number.

Authority: Sec. 416. Agricutural Act of 1949 (7 U.S.C. 1431).

§ 252.1 Purpose and scope.

(a) *Purpose.* This part provides a program whereby the Food and Nutrition Service (FNS) and private processors of food may enter into agreements under which the processor will process and distribute designated donated food to eligible recipient agencies. The intent of the program is to encourage private industry, acting in cooperation with the States and FNS, to develop new markets in which donated food may be utilized. It is expected that the processors will use their marketing abilities to encourage eligible recipient agencies to participate in the program. Additionally, recipient agencies will benefit by being able to purchase processed end products at a substantially reduced price.

(b) *Scope.* The terms and conditions set forth in this part are those under which processors may enter into agreements with FNS for the processing of commodities designated by the

Secretary of Agriculture and the minimum requirements which NCP processors must meet. Also prescribed are distributing agency and recipient agency responsibilities.

(c) *Eligible Recipient Agencies.* Recipient agencies shall be eligible to participate in the NCP Program to the extent of their eligibility to receive the food involved in the NCP Program, pursuant to Part 250.8 and Part 251.

§ 252.2 Definitions.

The terms used in this part that are defined in Parts 250.3 and 251.3 shall have the meanings ascribed to them therein, except as set forth in this section.

"Agreement value of the donated commodity" means the price assigned by the Department to a donated food which reflects the Department's current acquisition price, transportation and, if applicable, processing costs related to the food.

"Distributing agencies" means State, Federal or private agencies which enter into agreements with the Department for the distribution of donated food to eligible recipient agencies and recipients; and FNS when it accepts title to commodities from the Commodity Credit Corporation (CCC) for distribution to eligible recipient agencies under the National Commodity Processing Program. A recipient agency may also be a distributing agency.

"Donated food value return system" means a system used by a processor or distributor to reduce the price of the end product by the agreement value of the donated commodity.

"NCP Program" means a program under which FNS and private processors of food may enter into agreements under which the processor will process and distribute designated donated food to eligible recipient agencies.

"Recipient agency" means disaster organizations, charitable institutions, nonprofit summer camps for children, school food service authorities, schools, service institutions, welfare agencies, nutrition programs for the elderly, nonresidential child care institutions and emergency feeding organizations.

"Substitution" means the replacement of donated food with like quantities of domestically produced commercial food of the same generic identity and of equal or better quality (i.e., cheddar cheese for cheddar cheese, nonfat dry milk for nonfat dry milk, etc.).

§ 252.3 Administration.

(a) *Role of FNS.* The Secretary will designate those commodities which will be available under the NCP Program. Only commodities made available without charge or credit under any nutrition program administered by USDA will be available under NCP. FNS will act as the distributing agency and the contracting agency under the NCP Program. The Department will pay costs for delivering donated commodities to participating NCP Program processors

(b) *Food orders.* When NCP Program processors request donated food, FNS will determine whether the quantities ordered are consistent with the processor's ability to sell end products and/or the processor's past demonstrated performance under the Program. If the quantities are appropriate, FNS will request from CCC the donated food for transfer of title to FNS and delivery to a mutually agreed upon location for use by the NCP Program processor. The title to these commodities transfers to FNS upon their acceptance by the processor. FNS retains title to such commodities until:

(1) they are distributed to eligible recipient agencies in processed form, at which time the recipient agency takes title;

(2) they are disposed of because they are damaged or out-of-condition; or

(3) title is transferred to the NCP Program processor upon termination of the agreement.

(c) *Substituted food.* When FNS approves the substitution of donated commodities with commercial food, title to the substituted food shall transfer to FNS and the processor shall use the substituted food in accordance with the terms and conditions of this Part.

(d) *Inventory levels.* FNS will monitor the inventory of each food processor to ensure that the quantity of donated food for which a processor is accountable is at the lowest cost-efficient level. In no event shall a processor hold in inventory more than a six-month supply, based on average monthly usage under the NCP Program, unless a higher level has been specifically approved by FNS on the basis of justification submitted by the processor. Under no circumstances should the amount of donated food requested by the processor be more than the processor can accept and store at any one time. FNS will make no further distribution to a processor whose inventory exceeds these limits until such time as the inventory is reduced.

(e) *Recipient agency registration.* FNS will register, upon request, eligible recipient agencies. FNS will make available to food processors a listing of registered eligible recipient agencies for marketing purposes. Any processor desiring additional listings will be charged a fee for the listing which is commensurate with the Department's policy on user fees.

§ 252.4 Application to participate and agreement.

(a) *Application by processors to participate.* Any food processor is eligible to apply for participation in the NCP Program. Agreement applications may be filed with FNS at any time on an FNS-approved form. FNS will accept or reject the application of each individual food processor within 30 days from the date of receipt, except that FNS may, at its discretion, extend such period if it needs more information in order to make its determination. In determining whether to accept or reject an application, FNS shall take into consideration at least the following matters: the financial responsibility of the applicant; the ability of the applicant to meet the terms and conditions of the regulations and the NCP agreement; ability to accept and store commodities in minimum truckload quantities; historical performance under the State and NCP processing programs; anticipated new markets for NCP end products; geographic areas served by the processor; the ability of the applicant to distribute processed products to eligible recipient agencies; and a satisfactory record of integrity, business ethics and performance. In addition, the processors must demonstrate their ability to sell end products under NCP by submitting supporting documentation such as written intent to purchase, bids awarded, or historical sales performance. FNS will make a final determination based on all available documentation submitted.

(b) *Agreement between FNS and participating food processors.* Upon approval of an application for participation in the NCP Program, FNS shall enter into an agreement with the applicant food processor. All agreements under the NCP Program will terminate June 30, 1987.

(c) *Processor requirements and responsibilities.* In accordance with the following provisions and the NCP agreement, any processor participating in the NCP Program may sell to any eligible recipient agency nationwide a processed product containing the donated food received from FNS.

(1) The processor shall submit to FNS end product data schedules which include a description of each end product to be processed, the quantity of each donated food and any other ingredient which is needed to yield a specific number of units of each end product. FNS may permit processors to specify the total quantity of any flavorings or seasonings which may be used without identifying the ingredients

which are, or may be, components of seasonings or flavorings. The end product data schedule must include the processors' free on board (FOB) plant price schedule for quantity purchases of processed products. The end product data schedule shall be made a part of the NCP agreement.

(2) When determining the value of the donated food, the processor shall use the agreement value of the donated food which shall be the price assigned by the Department to a donated food which reflects the Department's current acquisition price, transportation and, if applicable, processing costs related to the food.

(3) The processor shall demonstrate to the satisfaction of FNS that internal controls are in place to insure that duplicate reporting of sales under the NCP Program and any other food distribution program does not occur.

(4) The processor shall use a method of selling end products to recipient agencies which ensures that the price of each case of end product is reduced by the agreement value of the donated commodity and ensures proper accountability. In line with FNS guidelines and subject to FNS approval, the processor shall select one or more of the following donated food value return systems to use during the term of the agreement. Regardless of the method used, the processor shall ensure that the invoice clearly indicates the discount included or refund due on the end product and clearly identifies that the discount included or refund due is for the value of the donated food. Regardless of the method chosen for selling end products, the processor shall reduce his inventory only by the amount of donated food represented by the discount or refund placed on the end product.

(i) *Direct Sale.* A direct sale is a sale by the processor directly to the eligible recipient agency. The following two methods of direct sales are allowed:

(A) *Discount System.* When the recipient agency pays the processor directly for an end product purchased, the processor shall invoice the recipient agency at the net case price which shall reflect the value of the discount established in the agreement.

(B) *Refund System.* The processor shall invoice the recipient agency for the commercial/gross price of the end product. The recipient agency shall submit a refund application to the processor within 30 days of receipt of the processed end product and the processor shall pay directly to the eligible recipient agency within 30 days of receipt of the refund application from the recipient agency, an amount equal to the established agreement value of donated food per case of end product multiplied by the number of cases delivered to and accepted by the recipient agency. In no event shall refund applications for purchases during the period of agreement be accepted by the processor later than 60 days after the close of the agreement period.

(ii) *Indirect Sale.* An indirect sale is a sale by the processor through a distributor to an eligible recipient agency. Indirect sales can be made with or without dual billing. Dual billing involves the processor billing the recipient agency for the end product and the distributor billing the recipient agency for the cost of services rendered in the handling and delivery of the end product. The following three methods of indirect sales are allowed:

(A) *Sale Through Distributor with Dual Billing.* When end products are sold to recipient agencies through a distributor under a system utilizing dual billing, the processor shall invoice the recipient agencies directly for the end products purchased at the net case price which reflects the value of the discount established in the agreement. The processor shall ensure that the distributor bills the recipient agencies only for the services rendered in the handling and delivery of the end product. The processor shall maintain delivery and/or billing invoices to substantiate the quantity of end product delivered to each recipient agency and the net case price charged by the processor which reflects the discount established by the agreement.

(B) *Sale Through Distributor without Dual Billing.* When end products are sold to recipient agencies through a distributor without dual billing, processors shall provide refunds to the distributor and ensure that the distributor provides discounts of equal value to recipient agencies. Under this system, the processor shall sell end products to a distributor at the processor's commercial/gross price for the end product. The processor's invoice shall reflect the value of commodities contained in the end product as established by the agreement. The processor shall ensure that the distributor submits a refund application to the processor within 30 days after the eligible recipient agency receives the processed end product. The processor shall ensure that the refund application includes documentation of the purchase of end products by the eligible recipient agency through substantiating invoices and that the recipient agency has purchased the end product at the net case price which reflects the value of the discount established by the agreement. Within 30 days of the receipt of the refund application, the processor shall issue payment directly to the distributor in an amount equal to the stated agreement value of the donated food contained in the purchased end products covered by the application. In no event shall refund applications for purchases during the period of agreement be accepted by the processors later than 60 days after the close of the agreement period. The processor shall verify a statistically valid sample of discount sales made by distributors without dual billing in a manner which ensures a 95 percent confidence level. All such sales reported during a quarter shall be verified at the end of that quarter. Processors shall verify that sales were made only to eligible recipient agencies and that the value of donated commodities was passed through to those recipient agencies. The processor shall report to FNS the level of invalid or inaccurate sales identified in each quarter within 60 days after the close of each quarter. At the same time such report is submitted, the processor shall submit to FNS a corrective action plan designed to correct problems identified in the verification effort. The processor shall adjust performance reports to reflect the invalid sales identified during the verification effort required by this paragraph. If, as a result of this verification, FNS determines that the value of donated food has not been passed on the recipient agencies or that end products have been improperly distributed, FNS may assert a claim against the processor.

(C) *Sale Through Distributor with a Refund.* Under the refund system, processors shall sell end products to distributors at the commercial/gross price of the end product. Distributors shall sell end products to recipient agencies at the commercial/gross price of the end products. Processors shall ensure that their invoices and the invoices of distributors identify the discount established by the agreement. Recipient agencies shall submit refund applications to processors within 30 days of receipt of the processed end product. Within 30 days of the receipt of the refund application from the recipient agency certifying actual purchases of end product from substantiating invoices maintained by the recipient agency, the processor shall compute the amount and issue payment of the refund directly to the recipient agency. In no event shall refund applications for purchases during the period of the agreement be accepted by the processor later than 60 days after the close of the agreement period.

(5) The processor shall furnish to FNS prior to the ordering of any donated food for processing, a performance supply and surety bond obtained from surety companies listed in the current Department of Treasury Circular 570 or an irrevocable letter of credit to cover the amount of inventory on hand and on order.

(6) The processor shall draw down inventory only for the amount of donated food used to produce the end product. Processors shall ensure that an amount equivalent to 100 percent of the donated food provided to the processor under the NCP Program is physically contained in end products. Additional commodities required to account for loss of donated food during production shall be obtained from non-donated food.

(7) The processor shall contact FNS for approval of any substitution of donated food. If approved, the processor shall substitute for donated food like quantities of domestically produced commercial food of the same generic identity (i.e., cheddar cheese for cheddar cheese, nonfat dry milk for nonfat dry milk, etc.) and of equal or better quality. Substitution must not be made solely for the purpose of selling or disposing of the donated commodity in commercial channels for profit. Substitution is only appropriate when donated food and commercial food must be commingled or when delays in donated food shipment adversely affect production. The processor shall maintain records to substantiate that it continues to acquire on the commercial market amounts of substitutable food consistent with their levels of non-NCP Program production and to document the receipt and disposition of the donated food. FNS shall withhold deliveries of donated commodities from processors that FNS determines have reduced their level of non-NCP Program production because of participation in the NCP Program.

(8) The processor shall be liable for all donated food provided under the agreement. The processor shall immediately report to FNS any loss or damage to donated food and shall dispose of damaged or out-of-condition food in accordance with Part 250.7.

(9) The processor shall submit to FNS monthly performance reports reflecting the sale and delivery of end products during the month.

(i) The processor shall ensure that the monthly performance report is postmarked no later than the last day of the month following the month being reported. The processor shall identify the month of delivery for each sale reported. The sale and delivery of end products for any prior month may be included on the monthly performance report. The processor monthly performance report shall include: (A) The donated food inventory at the beginning of the reporting month; (B) Amount of donated food received from the Department during the reporting month; (C) Amount of donated food transferred to and/or from existing inventory; (D) A list of all recipient agencies purchasing end products and the number of units of end products delivered to each during the report month; (E) The net price paid for each unit of end product and whether the sale was made under a discount or refund system; (F) When the sale is made through a distributor, the name of the distributor; (G) the amount of inventory drawdown represented by reported sales; and (H) the donated food inventory at the end of the reporting month.

(ii) At the end of each agreement period, there will be a final 90 day reconciliation period in which processors may adjust NCP sales for any month.

(10) The processor shall maintain complete and accurate records of the receipt, disposal and inventory of donated food including end products processed from donated food.

(i) The processor shall keep production records, formulae, recipes, daily or batch production records, loadout sheets, bills of lading, and other processing and shipping records to substantiate the use of the donated food and the subsequent redelivery to an eligible recipient agency.

(ii) The processor shall document that sales reported on monthly performance reports, specified in paragraph (c)(9) of this part were made only to eligible recipient agencies and that the normal wholesale price of the product was discounted or a refund payment made for the agreement value of the donated commodity.

(iii) When donated food is commingled with commercial food, the processor shall maintain records which will permit an accurate determination of the donated commodity inventory.

(iv) The processor shall make all pertinent records available for inspection and review upon request by FNS, its representatives and the General Accounting Office (GAO). All records must be retained for a period of three years from the close of the Federal fiscal year to which they pertain. Longer retention may be required for resolution of an audit or of any litigation.

(11) The processor shall obtain, upon FNS request, Federal acceptance service grading and review of processing activities and shall be bound by the terms and conditions of the grading and/or review.

(12) The processor shall indemnify and save FNS and the recipient agency free and harmless from any claims, damages, judgments, expenses, attorney's fees, and compensation arising out of physical injury, death, and/or property damage sustained or alleged to have been sustained in whole or in part by any and all persons whatsoever as a result of or arising out of any act or omission of the processor, his/her agents or employees, or caused or resulting from any deleterious substance, including bacteria, in any of the products produced from donated food.

(13) The processor shall be liable for payment for all uncommitted food inventory remaining at agreement termination.

(i) When agreements are terminated at the request of the processor or at FNS' request because there has been noncompliance on the part of the processor with the terms and conditions of the agreement, or if any right of FNS is threatened or jeopardized by the processor, the processor shall pay FNS an amount equal to the CCC unrestricted sales price, the cost CCC of replacement on the date the agreement is terminated, or the agreement value of donated commodities, whichever is highest, for the inventory, plus any expenses incurred by FNS.

(ii) When the agreements are terminated at FNS' request where there has been no fault or negligence on the part of the processor, the processor shall pay FNS an amount equal to the CCC unrestricted sales price, the cost to CCC of replacement on the date the agreement is terminated, or the agreement value of the donated commodities, whichever is highest, for the inventory, unless FNS and the processor mutually agree on another value.

(14) The processor shall comply fully with the provisions of the NCP agreement and all Federal regulations and instructions relevant to the NCP Program.

(15) The processor shall label end products in accordance with § 250.15(j) and, when end products contain vegetable protein products, in accordance with 7 CFR 210, 225, or 226 Appendix A.

(16) The processor shall return to FNS any funds received from the sale of donated food containers and the market value or the price received from the sale of any by-products of donated food or commercial food which has been substituted for donated food.

(17) For any year in which a processor receives more than $250,000 in donated food, the processor shall obtain an independent audit conducted by a Certified Public Accountant (CPA) for that year. Processors receiving $75,000 to $250,000 in donated food each year shall obtain an independent audit conducted by a CPA every two years and those receiving less than $75,000 in donated food each year shall obtain an independent audit conducted by a CPA every three years. Processors in the three year audit cycle shall move into the two year audit cycle when the value of donated food received reaches $75,000. If the Department determines that the audit is not acceptable or that the audit has disclosed serious deficiencies, the processor shall be subject to additional audits by OIG at the request of FNS.

(i) Audits shall be conducted in accordance with the auditing provisions set forth under the *Standards for Audit of Government Organizations, Programs, Activities and Functions*, and the FNS Audit Guide for Multi-State Processors.

(ii) The costs of the audits shall be borne by the processor.

(iii) Audit findings shall be submitted by the processors to FNS.

(iv) Noncompliance with the audit requirement contained in this part will render the processor ineligible to enter into another processing contract until the required audit has been conducted and deficiencies corrected.

§ 252.5 Recipient agency responsibilities.

(a) *Registration.* Recipient agencies that have approved agreements with State distributing agencies to receive donated food may register with FNS on an FNS approved form to participate in the NCP Program. Upon request, FNS will provide recipient agencies with registration forms. Recipient agencies shall notify FNS when they are no longer eligible to receive donated food under an agreement. Failure to notify FNS shall result in claim action.

(b) *Recipient agency records.* Each recipient agency shall maintain accurate and complete records with respect to the receipt, disposal, and inventory of donated food, including products processed from donated food, and with respect to any funds which arise from the operation of the distribution program.

(c) *Refunds.* A recipient agency purchasing end products under the NCP Program from a processor utilizing a refund system shall submit a refund application supplied by the processor to the processor within 30 days of receipt of the end products. Recipient agencies must insure that any funds received as a result of refund payments be designated for use by the food service department.

(d) *Verification.* If requested by FNS, each recipient agency shall cooperate in the verification of end product sales reported by processors under the NCP Program. The recipient agency may be requested to verify actual purchases of end products as substantiated by the recipient agency's invoices and may also be requested to verify that the invoice correctly identifies the discount included or refund due for the value of the donated ingredient contained in the end product.

§ 252.6 Miscellaneous provisions.

(a) *Improper distribution or loss of or damage to donated food.* If a processor improperly distributes or uses any donated food, or causes loss of or damage to a donated food through its failure to provide proper storage, care, or handling, FNS shall require the processor to pay to the Department the value of the donated food as determined by the Department.

(b) *Disposition of damaged or out-of-condition food.* Donated food which is found to be damaged or out-of-condition and is declared unfit for human consumption by Federal, State, or local health officials, or by any other inspection services or persons deemed competent by the Department, shall be disposed of in accordance with instructions of the Department. This instruction shall direct that unfit donated food be sold in a manner prescribed by the Department with the net proceeds thereof remitted to the Department. Upon a finding by the Department that donated food is unfit for human consumption at the time of delivery to a recipient agency and when the Department or appropriate health officials require that such donated food be destroyed, the processor shall pay for any expenses incurred in connection with such donated food as determined by the Department. The Department may, in any event, repossess damaged or out-of-condition donated food.

(c) *FNS Sales Verification.* FNS may conduct a verification of processor reported sales utilizing a statistically valid sampling technique. If, as a result of this verification, FNS determines that the value of the donated food has not been passed on to recipient agencies or if end products have been improperly distributed, FNS may assert a claim against the processor. This claim may include a projection of the verification sample to the total NCP sales reported by the processor.

(d) *Sanctions.* Any processor or recipient agency which has failed to comply with the provisions of this part or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto, may, at the discretion of the Department, be disqualified from further participation in the NCP Program. Reinstatement by be made at the option of the Department. Disqualification shall not prevent the Department from taking other action through other available means when considered necessary, including prosecution under applicable Federal statutes.

(e) *Embezzlement, misuse, theft, or obtainment by fraud of commodities and commodity related funds, assets, or property in child nutrition programs.* Whoever embezzles, willfully misapplies, steals, or obtains by fraud commodities donated for use in the NCP Program, or any funds, assets, or property deriving from such donations, or whoever receives, conceals, or retains such commodities, funds, assets, or property for his own use or gain, knowing such commodities, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to Federal criminal prosecution under section 12(g) of the National School Lunch Act, as amended, or Section 4(c) of the Agriculture and Consumer Protection Act of 1973, as amended. For the purpose of this paragraph "funds, assets, or property" include, but are not limited to, commodities which have been processed into different end products as provided for by this part, and the containers in which commodities have been received from the Department.

§ 252.7 OMB control number.

The information collection and reporting requirements contained in this Part have been approved by the Office of Management and Budget under Control No. 0584–0325.

Dated: June 24, 1986.

Robert E. Leard,

Administrator.

[FR Doc. 86–14632 Filed 6–27–86; 8:45 am]

BILLING CODE 3410–30–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Criteria for Reopening Records in Formal Licensing Proceedings

Correction

In FR Doc. 86-12152 beginning on page 19535 in the issue of Friday, May 30, 1986, make the following correction:

§ 2.734 [Corrected]

On page 19539, in the third column, in § 2.734(b), sixth line from the bottom, "particularly should read "particularity".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-71-AD; Amdt. 39-5348]

Airworthiness Directives; British Aerospace Aircraft Group Model HS 748 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires repetitive inspections of the microswitch rocker arms in the autofeather system on all British Aerospace (BAe) Model 748 airplanes which have not incorporated Modification 6909. This action is necessary to ensure the autofeather system operates properly in the event of an engine failure.

DATE: Effective August 4, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires repetitive inspections of the microswitch rocker arms in the autofeather system of certain BAe Model 748 airplanes to prevent auto system failure, was published in the **Federal Register** on September 5, 1985 (50 FR 36100).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 4 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 man-hour per airplane to accomplish the required actions, and that the average labor cost will be $40 per man-hour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $160.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($40). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace Aviation Group: Applies to all Model BAe HS 748 airplanes on which Modification 6909 has not been incorporated, certificated in any category. Compliance is required within the next 500 flight hours time-in-service after effective date of this AD, unless accomplished within the last 500 flight hours time-in-service, and thereafter at intervals not to exceed 1000 flight hours time-in-service. To prevent the loss of autofeather capability, accomplish the following:

A. Inspect the microswitch rocker arm assemblies in accordance with BAe Service Bulletin 76/15, Revision 3, dated November 1983. Replace any cracked rocker arm assemblies prior to further flight.

B. The installation of modified rocker arm assemblies, in accordance with BAe Service Bulletin 76/15, Revision 3, dated November 1983, terminates the requirement for the inspection called for in paragraph A., above.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective August 4, 1986.

Issued in Seattle, Washington, on June 23, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-14622 Filed 6-27-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-109-AD; Amdt. 39-5347]

Airworthiness Directives; British Aerospace Model BAe 125-800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires the incorporation of a revised flap microswitch layshaft in the stall

identification system on certain British Aerospace Model BAe 125–800A series airplanes. This action is prompted by a report of incorrect assembly, which has caused failure of a flap microswitch layshaft flange in the stall identification system. If not corrected, this condition could result in loss of stall warning.

DATE: Effective August 4, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace Inc., Librarian, Box 17414, Dulles International Airport, Washington DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM–113; telephone (206) 431–2909. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires the incorporation of a revised flap microswitch layshaft in the stall identification system on certain BAe 125–800A series airplanes, was published in the **Federal Register** on December 26, 1985 (50 FR 52794).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 20 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,400.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($320). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–499, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe 125–800A series airplanes listed in BAe 125 Service Bulletin 27–136–(3059A), Revision 1, dated June 26, 1985, certificated in any category. To prevent loss of stall warning, accomplish the following within the next 60 days after the effective date of this AD, unless previously accomplished:

A. Incorporate a new layshaft assembly in the stall identification system in accordance with the accomplishment instructions of British Aerospace 125 Service Bulletin 27–136–(3059A), Revision 1, dated June 24, 1985.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

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

All persons affected by this directive, who have not already received the appropriate service document from the manufacturer, may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective August 4, 1986.

Issued in Seattle, Washington, on June 23, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–14621 Filed 6–27–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 95

[Docket No. 25021; Amdt. No. 331]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: July 3, 1986.

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

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these

regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

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

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC on June 18, 1986.

John S. Kern,
Director of Flight Standards.

Adoption of the Amendment

PART 95—[AMENDED]

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.:

1. The authority citation for Part 95 continues to read as follows:

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

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 331 EFFECTIVE DATE, JULY 03, 1986

FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.		
IS AMENDED TO READ IN PART		
BOISE, ID VORTAC	MC CALL, ID VORTAC	
VIA BOI VORTAC 343 & MYL VORTAC 163		18000
		MAA-41000
BOISE, ID VORTAC	ZULUS, ID FIX	
	E BND	17500
	W BND	8500
NAPPY, ID FIX	IDAHO FALLS, ID VOR/DME	
	W BND	*17000
	E BND	*8000
*7700 - MOCA		
IS AMENDED TO DELETE		
CHANUTE, KS VOR/DME	EUDORA, KS	
VIA CNU VOR/DME 008		6000
		MAA-30000
§95.6001 VOR FEDERAL AIRWAY 1		
IS AMENDED TO READ IN PART		
INLET, SC FIX	*PLANN, SC FIX	2400
*2500 - MRA		
§95.6004 VOR FEDERAL AIRWAY 4		
IS AMENDED TO READ IN PART		
PAYET, ID FIX	EMETT, ID FIX	
	SE BND	*5600
	NW BND	*9000
*5200 - MOCA		
EMETT, ID FIX	BOISE, ID VORTAC	5600
CANEK, ID FIX	ALKAL, ID FIX	8500
ALKAL, ID FIX	JEROT, ID FIX	*8000
*6500 - MOCA		
BURLEY, ID VORTAC	MEDEA, ID FIX	*8400
*7800 - MOCA		
§95.6007 VOR FEDERAL AIRWAY 7		
IS AMENDED TO READ IN PART		
SWAGS, FL FIX	FORT MYERS, FL VORTAC	2200
§95.6015 VOR FEDERAL AIRWAY 15		
IS AMENDED TO READ IN PART		
PHARA, OK FIX	OKMULGEE, OK VOR	3000
§95.6017 VOR FEDERAL AIRWAY 17		
IS AMENDED TO READ IN PART		
LAREDO, TX VORTAC	*KAHAN, TX FIX	**2400
*5000 - MRA		
**1800 - MOCA		
KAHAN, TX FIX	COTULLA, TX VORTAC	*2400
*1900 - MOCA		
AUSTIN, TX VORTAC	BELTO, TX FIX	2700
WILLI, TX FIX	ACTON, TX VORTAC	2700
WILL ROGERS, OK VORTAC	ODINS, OK FIX	3300
§95.6026 VOR FEDERAL AIRWAY 26		
IS AMENDED TO READ IN PART		
ALCOS, WY FIX	CASPER, WY VORTAC	
	N BND	8400
	S BND	9700
§95.6035 VOR FEDERAL AIRWAY 35		
IS AMENDED TO READ IN PART		
DEEDS, FL FIX	FORT MYERS, FL VORTAC	2200
GREENVILLE, FL VORTAC	HARKE, GA FIX	2400
§95.6039 VOR FEDERAL AIRWAY 39		
IS AMENDED TO READ IN PART		
AUGUSTA, ME VORTAC	RINTH, ME FIX	*3000
*1900 - MOCA		
§95.6054 VOR FEDERAL AIRWAY 54		
IS AMENDED TO READ IN PART		

BILLING CODE 4910-13-M

FROM	TO	MEA
§95.6054 VOR FEDERAL AIRWAY 54—Continued		
HOLLY SPRINGS, MS VORTAC	MUSCLE SHOALS, AL VORTAC	3000
§95.6056 VOR FEDERAL AIRWAY 56		
IS AMENDED TO READ IN PART		
PUNGO, NC FIX	HATTERAS INLET STATION, NC MARINE NDB	*2000
*1300 - MOCA		
§95.6066 VOR FEDERAL AIRWAY 66		
IS AMENDED TO READ IN PART		
HYMAN, TX VOR	TYEES, TX FIX	4500
TYEES, TX FIX	ABILENE, TX VORTAC	*4000
*3200 - MOCA		
§95.6070 VOR FEDERAL AIRWAY 70		
IS AMENDED TO READ IN PART		
LAFAYETTE, LA VORTAC	*ROSEY, LA FIX	2000
*3000 - MRA		
BATON ROUGE, LA VORTAC	TICKS, LA FIX	1800
§95.6071 VOR FEDERAL AIRWAY 71		
IS AMENDED TO READ IN PART		
REEDS, MO FIX	SPOKE, MO FIX	3000
§95.6078 VOR FEDERAL AIRWAY 78		
IS AMENDED TO READ IN PART		
GOPHER, MN VORTAC	EAU CLAIRE, WI VORTAC	3400
§95.6113 VOR FEDERAL AIRWAY 113		
IS AMENDED TO READ IN PART		
ROBUD, NV FIX	SOD HOUSE, NV VORTAC	
	S BND	12000
	N BND	10000
ROME, OR VORTAC	*RENOL, ID FIX	9400
*7300 - MCA RENOL FIX, SW BND		
RENOL, ID FIX	*BOISE, ID VORTAC	**6000
*8200 - MCA BOISE VORTAC, NE BND		
**5400 - MOCA		
§95.6152 VOR FEDERAL AIRWAY 152		

FROM	TO	MEA
§95.6152 VOR FEDERAL AIRWAY 152—Continued		
IS AMENDED TO READ IN PART		
JENSN, FL FIX	KIZER, FL FIX	2900
KIZER, FL FIX	ORMOND BEACH, FL VORTAC	2700
§95.6159 VOR FEDERAL AIRWAY 159		
IS AMENDED TO READ IN PART		
GREENVILLE, FL VORTAC	HARKE, GA FIX	2400
§95.6161 VOR FEDERAL AIRWAY 161		
IS AMENDED TO READ IN PART		
LEMIG, TX FIX	CENTER POINT, TX VORTAC	4000
PHARA, OK FIX	OKMULGEE, OK VOR	3000
§95.6194 VOR FEDERAL AIRWAY 194		
IS AMENDED TO READ IN PART		
LAFAYETTE, LA VORTAC	*ROSEY, LA FIX	2000
*3000 - MRA		
§95.6233 VOR FEDERAL AIRWAY 233		
IS AMENDED TO READ IN PART		
GOSHEN, IN VORTAC	LITCHFIELD, MI VORTAC	3000
LANSING, MI VORTAC	MOUNT PLEASANT, MI VOR/DME	3000
MOUNT PLEASANT, MI VOR/DME	CARGA, MI FIX	5500
§95.6253 VOR FEDERAL AIRWAY 253		
IS AMENDED TO READ IN PART		
TWIN FALLS, ID VORTAC	LITKE, ID FIX	6300
LITKE, ID FIX	CANEK, ID FIX	8500
*BOISE, ID VORTAC	BANGS, ID FIX	8900
*7400 - MCA BOISE VORTAC, N BND		
§95.6308 VOR FEDERAL AIRWAY 308		
IS ADDED TO READ		
BETHEL, AK VORTAC	FISHH, AK	*2000
*1400 - MOCA		
FISHH, AK	SPARREVOHN, AK VOR/DME	*8000
*6000 - MOCA		

FROM	TO	MEA
§95.6319 VOR FEDERAL AIRWAY 319		
IS AMENDED BY ADDING		
ARSEN, AK FIX	FANCI, AK FIX	*4000
*2000 - MOCA		
FANCI, AK FIX	HOOPER BAY, AK VOR/DME	2000
IS AMENDED TO READ IN PART		
WEEKE, AK FIX	BETHEL, AK VORTAC	*2000
*1400 - MOCA		
BETHEL, AK VORTAC	ARSEN, AK FIX	*2000
*1400 - MOCA		
§95.6330 VOR FEDERAL AIRWAY 330		
IS AMENDED TO READ IN PART		
CANEK, ID FIX	ALKAL, ID FIX	8500
§95.6333 VOR FEDERAL AIRWAY 333		
IS ADDED TO READ		
CAPE NEWENHAM, AK NDB	AMADO, AK FIX	4000
AMADO, AK FIX	KIPNUK, AK VOR/DME	2000
KIPNUK, AK VOR/DME	BANDA, AK FIX	2500
BANDA, AK FIX	DENRO, AK FIX	3500
DENRO, AK FIX	HOOPER BAY, AK VOR/DME	2000
HOOPER BAY, AK VOR/DME	HALEM, AK FIX	4500
HALEM, AK FIX	FAIRE, AK FIX	*8000
*2300 - MOCA		
FAIRE, AK FIX	NOME, AK VORTAC	3000
NOME, AK VORTAC	*GAITS, AK FIX	4000
*4700 - MCA GAITS FIX, N BND		
GAITS, AK FIX	SHISHMAREF, AK NDB	*10000
*6700 - MOCA		
§95.6350 VOR FEDERAL AIRWAY 350		
IS ADDED TO READ		
DILLINGHAM, AK VOR/DME	TOGIAK, AK NDB/DME	5000
TOGIAK, AK NDB/DME	BAFIN, AK FIX	5000
BAFIN, AK FIX	BETHEL, AK VORTAC	*2000
*1400 - MOCA		
§95.6358 VOR FEDERAL AIRWAY 358		
IS AMENDED TO READ IN PART		
DALLAS-FORT WORTH, TX VORTAC	KIOWA, TX FIX	2700
KIOWA, TX FIX	ARDMORE, OK VORTAC	3000
§95.6401 VOR FEDERAL AIRWAY 401		
IS ADDED TO READ		
AMBLER, AK NDB/DME	FARME, AK FIX	*5500
*4700 - MOCA		

FROM	TO	MEA
§95.6401 VOR FEDERAL AIRWAY 401—Continued		
FARME, AK FIX	KOTZEBUE, AK VOR/DME	2000
KOTZEBUE, AK VOR/DME	SHISHMAREF, AK NDB	*2500
*2000 - MOCA		
§95.6444 VOR FEDERAL AIRWAY 444		
IS AMENDED TO READ IN PART		
BOISE, ID VORTAC	EMETT, ID FIX	5600
EMETT, ID FIX	PAYET, ID FIX	
	SE BND	*5600
	NW BND	*9000
*5200 - MOCA		
§95.6452 VOR FEDERAL AIRWAY 452		
IS AMENDED BY ADDING		
KUKULIAK, AK VOR/DME	NOME, AK VORTAC	3000
§95.6477 VOR FEDERAL AIRWAY 477		
IS ADDED TO READ		
GALENA, AK VORTAC	HUSLIA, AK VOR/DME	3000
HUSLIA, AK VOR/DME	ATAGO, AK FIX	*3500
*2500 - MOCA		
ATAGO, AK FIX	DESOY, AK FIX	4000
DESOY, AK FIX	SELAWIK, AK VOR/DME	*2500
*2000 - MOCA		
SELAWIK, AK VOR/DME	JELLE, AK FIX	3500
JELLE, AK FIX	AMBLER, AK NDB/DME	
	NE BND	5000
	SW BND	4000
§95.6480 VOR FEDERAL AIRWAY 480		
IS AMENDED BY ADDING		
SAINT PAUL ISLAND, AK MARINE NDB/DME	ALIEN, AK FIX	3000
ALIEN, AK FIX	KIPNUK, AK VOR/DME	2000
KIPNUK, AK VOR/DME	BETHEL, AK VORTAC	*2000
*1400 - MOCA		
IS AMENDED TO READ IN PART		
BETHEL, AK VORTAC	CABOT, AK FIX	*2000
*1400 - MOCA		
MCGRATH, AK VORTAC	MEFRA, AK FIX	4000
§95.6488 VOR FEDERAL AIRWAY 488		
IS AMENDED BY ADDING		
HOOPER BAY, AK VOR/DME	AKELT, AK FIX	4000
AKELT, AK FIX	ALMOT, AK FIX	*10000
*4000 - MOCA		

FROM	TO	MEA
§95.6488 VOR FEDERAL AIRWAY 488—Continued		
ALMOT, AK FIX	UNALAKLEET, AK VORTAC	3000
UNALAKLEET, AK VORTAC	EDMON, AK FIX	4000
EDMON, AK FIX	VENCE, AK FIX	*5500
*4900 - MOCA		
VENCE, AK FIX	GALENA, AK VORTAC	*3000
*2500 - MOCA		
IS AMENDED TO READ IN PART		
GALENA, AK VORTAC	TANANA, AK VOR	6000
TANANA, AK VOR	GOLLY, AK FIX	*7000
*4600 - MOCA		
GOLLY, AK FIX	MINTO, AK FIX	*4500
*3000 - MOCA		
MINTO, AK FIX	FAIRBANKS, AK VORTAC	4000
§95.6491 VOR FEDERAL AIRWAY 491		
IS AMENDED TO DELETE		
MEDICINE BOW, WY VORTAC	*ALCOS, WY FIX	9900
*9700 - MRA		
ALCOS, WY FIX	CASPER, WY VORTAC	
	N BND	*8400
	S BND	*9700
*8400 - MOCA		
§95.6521 VOR FEDERAL AIRWAY 521		
IS AMENDED TO READ IN PART		
*LICKS, FL FIX	TERES, FL FIX	**7000
*7000 - MCA LICKS FIX, W BND		
**1300 - MOCA		
§95.6531 VOR FEDERAL AIRWAY 531		
IS ADDED TO READ		
POINT HOPE, AK NDB	BERJO, AK FIX	*8000
*4000 - MOCA		
BERJO, AK FIX	KOTZEBUE, AK VOR/DME	2000
KOTZEBUE, AK VOR/DME	SELAWIK, AK VOR/DME	2500
SELAWIK, AK VOR/DME	DESOY, AK FIX	*2500
*2000 - MOCA		
DESOY, AK FIX	ATAGO, AK FIX	4000
ATAGO, AK FIX	HUSLIA, AK VOR/DME	*3500
*2500 - MOCA		
HUSLIA, AK VOR/DME	CENSE, AK FIX	*3500
*2700 - MOCA		
CENSE, AK FIX	TANANA, AK VOR	*6500
*6000 - MOCA		
TANANA, AK VOR	GOLLY, AK FIX	*7000
*4600 - MOCA		
GOLLY, AK FIX	MINTO, AK FIX	*4500
*3000 - MOCA		

FROM	TO	MEA
§95.6531 VOR FEDERAL AIRWAY 531—Continued		
MINTO, AK FIX	FAIRBANKS, AK VORTAC	4000
§95.6532 VOR FEDERAL AIRWAY 532		
IS AMENDED BY ADDING		
SALINA, KS VORTAC	LINCOLN, NE VORTAC	*5000
*2900 MOCA		
§95.6537 VOR FEDERAL AIRWAY 537		
IS AMENDED TO READ IN PART		
MOULTRIE, GA VOR/DME	MACON, GA VORTAC	*3000
*2400 - MOCA		
§95.6576 VOR FEDERAL AIRWAY 576		
IS ADDED TO READ		
PHILIPSBURG, PA VORTAC	WILLIAMSPORT, PA VORTAC	4000
WILLIAMSPORT, PA VORTAC	HANCOCK, NY VORTAC	4000
HANCOCK, NY VORTAC	DE LANCEY, NY VOR	4000
§95.6579 VOR FEDERAL AIRWAY 579		
IS AMENDED TO READ IN PART		
CROSS CITY, FL VORTAC	VALDOSTA, GA VOR/DME	*2000
*1500 - MOCA		
VALDOSTA, GA VOR/DME	TIFT MYERS, GA VOR	2200
§95.6589 VOR FEDERAL AIRWAY 589		
IS ADDED TO READ		
MEDICINE BOW, WY VORTAC	*ALCOS, WY FIX	9900
*9700 - MRA		
ALCOS, WY FIX	CASPER, WY VORTAC	
	N BND	8400
	S BND	9700
§95.6405 HAWAII VOR FEDERAL AIRWAY 5		
IS AMENDED TO READ IN PART		
MOANA, HI FIX	*ROWIN, HI FIX	
VIA W ALTER	VIA W ALTER	4000
*5500 - MCA ROWIN FIX, N BND		
§95.6407 HAWAII VOR FEDERAL AIRWAY 7		
IS AMENDED TO READ IN PART		
MOANA, HI FIX	*ROWIN, HI FIX	4000
*5500 - MCA ROWIN FIX, N BND		
ROWIN, HI FIX	LANAI, HI VORTAC	4000
ATINE, HI FIX	BERLE, HI FIX	7000
BERLE, HI FIX	ZIGIE, HI FIX	22000

FROM	TO	MEA	MAA
§95.7188 JET ROUTE NO. 188			
IS ADDED TO READ			
BETHEL, AK VORTAC	SPARREVOHN, AK VOR/DME	18000	45000
§95.7190 JET ROUTE NO. 190			
IS ADDED TO READ			
CARLETON, MI VORTAC	SLATE RUN, PA VORTAC	18000	45000
SLATE RUN, PA VORTAC	ROCKDALE, NY VORTAC	18000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT			CHANGEOVER POINTS
FROM	TO	DISTANCE	FROM
V-333			
IS AMENDED BY ADDING			
CAPE NEWENHAM, AK NDB	KIPNUK, AK VOR/DME	55	CAPE NEWENHAM
HOOPER BAY, AK VOR/DME	NOME, AK VORTAC	70	HOOPER BAY
NOME, AK VORTAC	SHISHMAREF, AK NDB	65	NOME
V-401			
IS AMENDED BY ADDING			
AMBLER, AK NDB/DME	KOTZEBUE, AK VOR/DME	40	AMBLER
KOTZEBUE, AK VOR/DME	SHISHMAREF, AK NDB	60	KOTZEBUE
V-452			
IS AMENDED BY ADDING			
KUKULIAK, AK VOR/DME	NOME, AK VORTAC	67	KUKULIAK
V-480			
IS AMENDED BY ADDING			
BETHEL, AK VORTAC	MCGRATH, AK VORTAC	91	BETHEL
V-488			
IS AMENDED BY ADDING			
HOOPER BAY, AK VOR/DME	UNALAKLEET, AK VORTAC	91	HOOPER BAY
UNALAKLEET, AK VORTAC	GALENA, AK VORTAC	57	UNALAKLEET
V-531			
IS AMENDED BY ADDING			
POINT HOPE, AK NDB	KOTZEBUE, AK VOR/DME	116	POINT HOPE
KOTZEBUE, AK VOR/DME	SELAWIK, AK VOR/DME	33	KOTZEBUE
HUSLIA, AK VOR/DME	TANANA, AK VOR	50	HUSLIA
TANANA, AK VOR	FAIRBANKS, AK VORTAC	44	TANANA
V-532			
IS AMENDED BY ADDING			
SALINA, KS VORTAC	LINCOLN, NE VORTAC	54	SALINA

[FR Doc. 86-14619 Filed 6-27-86; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 399

[Docket No. 60351-6051]

Clarifications: Special Licenses Not Available for Certain Commodities

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: On September 11, 1985, Export Administration issued two final rules (50 FR 37112-37161) regarding revisions to the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls.

Those rules identified certain items on the CCL as not being eligible for certain special (bulk) export licenses. However, the Export Control Commodity Numbers (ECCNs) covering those items were not included in Supplement No. 1 to Part 373 of the Export Administration Regulations, which identifies commodities excluded from those special licensing procedures. This rule adds the applicable ECCNs (1302, 1573, 1574, 1672, 1674 and 1749) to Supplement No. 1 to Part 373 to make clear that commodities listed under those ECCNs in the CCL are *not* eligible for the special licensing procedures set forth in Part 373. Such commodities require a validated license for export to all destinations except Canada.

This rule also amends ECCN 1542 by revising the "GLV $ Value Limit"—the maximum net value of a commodity covered by 1542 that may be exported under General License GLV. The September rule listed incorrect values for that entry.

In addition, references in ECCN 1460 are revised to reflect the numbering system of "Notes" in the CCL effective September 11, 1985.

EFFECTIVE DATE: This rule is effective June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377-3856.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Betty Ferrell, Office of Technology and Policy Analysis, Export Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a)) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information requirement subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 15 CFR Parts 373 and 399

Exports, Reporting and recordkeeping requirements.

PARTS 373 AND 399—[AMENDED]

Accordingly, Parts 373 and 399 of the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

1. The authority citation for 15 CFR Parts 373 and 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

2. Supplement No. 1 to Part 373 is amended by adding the following entries in numerical order (disregarding the first digit), as follows:

Supplement No. 1—Commodities Excluded From Certain Special License Procedures

* * * * *

1302 Specially designed nozzles for producing pyrolitically-derived materials formed on a mould, mandrel or other substrate from precursor gases that decompose in the 1,573 K (1,300 °C) to 3,173K (2,900 °C) temperature range at pressures of 133.3 Pa to 19.995 kPa. (Entire entry.)

* * * * *

1573 Superconductive electromagnets and solenoids. (Entire entry.)

1574 Electronic devices, circuits and systems. (Entire entry.)

* * * * *

1672 Aluminides or titanium containing 12 weight % or more aluminum, and aluminides of nickel, cobalt and iron containing 10 weight % or more aluminum, in crude or semi-fabricated forms, and scrap thereof. (Entire entry.)

* * * * *

1674 Vanadium of 99.7% or higher purity (including scrap) and alloys containing vanadium of 99.7% or higher purity as an alloying agent (including scrap). (Entire entry.)

* * * * *

1749 Polycarbonate sheet of 1.5 mm (0.60 inch) to 25.4 mm (1 inch) thickness, having no major defects and having all of the optical characteristics listed in the entry. (Entire entry.)

§ 399.1 [Amended]

3. In Supplement No. 1 to section 399.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), ECCN 1460A is amended by revising "Note 4" to read "Note 8" in paragraphs (a) and (b) of Note 2 and by revising "Note 5" to read "Note 9" in paragraph (c) of Note 2.

4. In supplement No. 1 to section 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1542A is amended by revising the *GLV $ Value Limit* paragraph to read "$0 for all destinations."

Dated: June 25, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86-14701 Filed 6-27-86 8:45 am]

BILLING CODE 3510-01-M

15 CFR Part 399

[Docket No. 60114-6014]

Amendment to CCL Entry 1572A; Redefinition Based on COCOM Review

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends CCL entry 1572A, which covers recording or reproducing equipment, by redefining certain video magnetic tape and disc recorders *not* controlled by this entry. This amendment is based on the review of strategic controls maintained by the U.S. and certain allied countries through the Coordinating Committee (COCOM).

EFFECTIVE DATE: This rule is effective June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Office of Technology and Policy Analysis, Export Administration, (Telephone: (202) 377-3856).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 533), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, like other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to: Betty Ferrell, Office of Technology and Policy Analysis, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 533 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule involves a collection of information requirement subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0625-0001.

List of Subjects in 15 CFR Part 399

Exports.

PART 399—[AMENDED]

Accordingly, Part 399 of the Export Administration Regulations (15 CFR Parts 368-399) is amended as follows:

1. The authority citation for Part 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223, 50 U.S.C. 1701 *et. seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

§ 399.1 [Amended]

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1572A is amended by removing paragraph (c)(1)(iv) of Note 2.

Dated: June 25, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86-14699 Filed 6-27-86; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Part 399

[Docket No. 60221-6021]

Export Controls on Certain Polycarbonate Sheet; Revision of Technical Note

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: On September 11, 1985 (50 FR 37112-37161), Export Administration issued a final rule setting forth a series of amendments to the Commodity Control List (CCL), a listing of items subject to Department of Commerce export controls. Among the amendments was the addition of a new CCL entry 1749A, which covers certain polycarbonate sheet "having no major defects". A technical note was included in that entry defining "major" and "minor" defects. This rule amends that technical note by clarifying the definition of a "minor" defect.

EFFECTIVE DATE: June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Jo-Anne Jackson, Capital Goods and Production Materials Center, Export Administration, (Telephone: (202) 377-0896).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, like other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to: Betty Ferrell, Office of Technology and Policy Analysis, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information requirement subject to the requirements of the

Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 15 CFR Part 399

Exports.

PART 399—(AMENDED)

Accordingly, Part 399 of the Export Administration Regulations is amended as follows:

1. The authority citation for 15 CFR Part 399 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

§ 399.1 [Amended]

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1749A is amended by revising the second sentence of the *Technical Note* to read as follows:

"Minor defects include any embedded particles, bubbles, scratches or internal inhomogeneities, having a major dimension that is 0.25 mm (0.01 inches) or greater, that reduce visibility through the plastic; or those localized imperfections that cause a variation in angular deviation of more than 5 minutes within a distance of not more than 508 mm (20 inches) on the screen when tested by method ASTM D637."

Dated: June 25, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86–14700 Filed 6–27–86; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM83–71–039; Order No. 380–E]

Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions

Issued June 24, 1986.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order on remand.

SUMMARY: On remand from the court of appeals' decision in *Wisconsin Gas Co. v. FERC*, 770 F.2d 1144 (D.C. Cir. 1985), the Federal Energy Regulatory Commission (Commission) explains the reasons for its policy, as clarified in Order No. 380–A (49 FR 31, 259 (August 6, 1984)), of requiring a "downstream pipeline" to pass through "upstream pipeline" minimum commodity bill charges in its purchased gas adjustment (PGA). In so doing, the Commission also reiterates its clarification in Order No. 380–A that § 154.111 of its regulations (18 CFR 154.111 (1985)) bars downstream pipelines from using their own minimum commodity bill tariff provisions to pass through such upstream pipeline charges. In general, the Commission's order responds to various inquiries of the court of appeals.

EFFECTIVE DATE: June 24, 1986. Section 154.111 of the Commission's regulations became effective August 15, 1984 (49 FR 32172 (August 13, 1984)).

FOR FURTHER INFORMATION CONTACT: Scott E. Koves, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8437.

SUPPLEMENTARY INFORMATION:

Order on Remand

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

This order concerns the "downstream pipeline" issue remanded to the Commission by the United States Court of Appeals for the District of Columbia Circuit in *Wisconsin Gas Co. v. FERC, (Wisconsin Gas).*[1] That issue was the only matter remanded on appeal of the Commission's Order No. 380 [2] series that eliminated variable cost recovery from interstate pipeline minimum commodity bills. At issue is the Commission's policy of requiring that the minimum commodity bill charges a "downstream" pipeline pays to an "upstream" pipeline natural gas supplier be flowed through the downstream pipeline's purchased gas adjustment (PGA).[3]

In Order No. 380–A, the Commission rejected an alternative procedure that Midwestern Gas Transmission Company (Midwestern) posed in its request for clarification and rehearing of Order No. 380. Under Midwestern's approach, the downstream pipeline would pass through these charges in its own minimum commodity bill.[4] Following Midwestern's appeal, the court remanded for our reconsideration of this issue and for us to provide a rational and reasoned explanation for our ultimate disposition of this issue. For the reasons set forth below, we affirm our PGA pass-through policy and reiterate our holding that specific claims for waiver of that policy must be supported in individual rate proceedings.

I. Background

Since 1954 when the Supreme Court decided *Phillips Petroleum Company v. Wisconsin*, 347 U.S. 672 (1954), the Commission had been struggling with the problem of determining just and reasonable rates for the interstate sale of natural gas by producers. With the enactment of the Natural Gas Policy Act in 1978, 15 U.S.C. 3301–2323, a new regulatory regime was created. With the phased, partial decontrol set in motion by that Act, this Commission was free from the obligation of determining just and reasonable wellhead rates for natural gas being sold in interstate commerce. Roughly half of the natural gas in interstate commerce was deregulated on January 1, 1985. Henceforth, the price of this gas will be regulated by market forces.

As the Supreme Court noted in *Transcontinental Gas Pipeline Corporation v. State Oil and Gas Board of Mississippi*, 54 U.S.L.W. 4117 (U.S. Jan. 22, 1986) (*Transco*), the artificial pricing scheme imposed upon producer sales by the Natural Gas Act was a major cause of the supply and demand imbalances of the 1970s. *Id.* In place of this scheme Congress established a new system of natural gas pricing designed to ensure adequate supplies of natural gas at fair prices. *Id.* For the most part the federal role under the Natural Gas Policy Act is that of overseeing a nationwide "market price regulatory scheme." *Id.* Under this scheme the price consumers pay for gas should determine the price at which producers sell the gas.

Interstate pipeline minimum commodity bills deter partial requirements customers from purchasing the cheapest gas available. In a time of plentiful supply, such as now, minimum bills cause gas prices to be artificially high. Of more lasting significance, however, a minimum bill prevents the price signals generated at the burner tip from being felt by the producers. Thus, the market price regulatory scheme put

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[1] 770 F.2d 1144 (D.C. Cir. 1985).

[2] FERC Stat. & Reg. [Regulations Preambles 1982–1985] ¶ 30,571 (1984).

[3] Order No. 380–A, FERC Stat. & Reg. [Regulations Preambles 1982–1985] ¶ 30,584 at 31,043 (1984).

[4] On January 11, 1985, Midwestern filed a separate brief to the court restricted to the downstream pipeline issue.

in place by the Natural Gas Policy Act is thwarted.

Early in the regulation of natural gas companies, the Commission allowed pipeline suppliers to change their customers a minimum bill recovering all fixed and variable commodity costs for certain volumes of gas whether or not the customers took that much gas. Among other things, tariff provisions were designed to guarantee the debt service for pipeline construction as markets were developed. *See Atlantic Seaboard Corporation*, 3 FPC 91, 95 (1962), *aff'd. Atlantic Seaboard Corporation v. FPC*, 404 F.2d 1268 (D.C. Cir. 1968); *Lynchburg Gas Co. v.* FPC, 336 F.2d 942 (D.C. Cir. 1964). Although anti-competitive, minimum bills could be justified given the developing state of the industry. This situation, however, has changed. In light of deregulation under the Natural Gas Policy Act as well as the Commission's continuing obligation under the Natural Gas Act to safeguard the interests of consumers, the Commission in the Order 380 series barred variable cost minimum bills from pipeline tariffs.

In order for gas from an alternative pipeline supplier to be attractive to a partial requirements customer, the gas must be sufficiently cheaper so that the customer can pay the minimum bill, buy the cheaper gas, and still save money. In other words, on a per-unit basis, the amount by which the price of the alternate gas is cheaper than the price of the existing supply must exceed the extra amount owed under the minimum bill. Although there may be valid reasons for categorically banning fixed cost minimum bills as well as variable cost minimum bills, the Commission did not do so in the Order 380 series. Instead, it only barred variable cost minimum bills from pipeline tariffs. Fixed cost minimum bills will continue to be examined on a case-by-case basis.

II. Downstream Pipeline Issue

In its request for clarification and rehearing of Order No. 380, Midwestern urged the Commission to clarify that the rule, § 154.111 of the Commission's regulations, is not intended to require downstream pipelines to exclude from their minimum commodity bills that portion of their purchased gas costs which their upstream pipeline suppliers included in their minimum commodity bill charges. Accordingly, it argued that these upstream minimum bill charges should not be treated as variable purchased gas costs. Under Midwestern's approach, only the variable cost portion of the upstream pipeline's commodity charge would be considered a "variable" cost for purposes of the downstream pipeline's minimum commodity bill. The "fixed" cost portion of the upstream pipeline's commodity charge would be considered a "fixed" cost for purposes of the downstream pipeline's minimum commodity bill and would not be barred by the rule. The result would be that Midwestern could use its minimum commodity bill to recover its own fixed costs plus the portion of Tennessee's fixed costs that Tennessee recovered from Midwestern in minimum commodity bill charges.

In Order No. 380–A, the Commission rejected Midwestern's request on the basis that it would cause a departure from "consistent Commission rate design practice."[5] The Commission observed that the upstream pipeline's commodity charges are variable purchased gas costs to the downstream pipeline. The Commission further observed that the downstream pipeline is assured recovery of these upstream minimum bill charges by its own PGA clause. The Commission stated that these payments are to be booked to Midwestern's Account No. 191 as a deferred cost and recovered via its PGA.[6] Accordingly, under the Commission's PGA flowthrough approach, Tennessee's minimum commodity bill charges are borne by all of Midwestern's customers through their commodity charges.

Midwestern appealed the Commission's resolution of the "downstream pipeline issue." Midwestern reiterated its claim that the Commission's rule discriminates against downstream pipelines and added the new arguments that the rule causes a misallocation of costs among its customers and is contrary to the Commission's "as-billed" policy articulated in *Northwest Alaskan Pipeline Co.*, 11 FERC ¶ 61,088 at 61,182, *reh'g denied*, 11 FERC ¶ 61,302 (1980).

In *Wisconsin Gas*, the Court found that the Commission in Order No. 380–A, did not explain its decision on the "downstream pipeline issue" and remanded that decision for reconsideration. In particular, the court found that the Commission provided no explanation for: (1) The apparent inconsistency between the "as-billed" principle and what the court referred to as the Commission's "undefined" consistent rate design practice; (2) the apparent departure from what the court viewed as "the clear objective stated in Order No. 380 to exempt fixed cost recovery through minimum bills from that decision;" (3) the "facially valid" argument that Midwestern will be placed at a competitive disadvantage if these upstream "fixed" costs are recovered in "increased commodity rates;" and (4) the apparent conclusion that Midwestern's minimum commodity bill customers should be "relieved" of their obligation to pay their share of the fixed costs of the "upstream segment of the system" (*i.e.*, Tennessee's portion of the combined systems) while other pipelines (presumably producer-supplied pipelines) may charge their minimum bill customers for their share of the fixed costs of the "entire" system.[7] We will address the court's concerns, as well as Midwestern's specific arguments, in the following discussion.

III. As-billed Principle And Rate Design

The Commission's "as-billed" principle is easily stated: when a downstream pipeline purchases gas from an upstream pipeline, the upstream pipeline's demand charges are included in the downstream pipeline's demand charges and the upstream pipeline's commodity charges are included in the downstream pipeline's commodity charges.[8] In short, the cost classification as between demand and commodity of the upstream pipeline must be retained. Does this mean that an upstream pipeline's fixed costs will necessarily be a fixed cost of the downstream pipeline? No.

Indeed for upstream fixed costs within the commodity charge the opposite will occur. They become variable costs to the downstream pipeline. The "as-

[5] Order No. 380–A, III FERC Stat. & Reg., ¶ 30,548 at 31,042 (1984).

[6] *Id.* at 31,043. In Order No. 380–B, 29 FERC ¶ 61,076 at 61,156 (1984), the Commission clarified that any cost-shifting issues arising out of the resolution of the downstream pipeline issue in Order No. 380–A should be resolved in a section 4 rate case or a semi-annual PGA case with respect to a rate filing by the downstream pipeline.

[7] On October 30, 1984, in Great Lakes Gas Transmission Co., *et al.*, 29 FERC ¶ 61,135, (1984) *reh'g denied*, 30 FERC ¶ 61,263 (1985), the Commission denied Midwestern's request for waiver of § 154.111 to provide for the specific assignment of its minimum commodity bill payments to the customers responsible for their incurrence. The Commission found Midwestern's status as a downstream pipeline was not unique and that alleged cost shifting from its partial requirements customers to its small customers was speculative. On January 10 and 29, 1986, the Commission rejected as premature two separate Midwestern tariff filings that proposed to implement its direct assignment methodology following the court's remand in *Wisconsin Gas*. *See* Midwestern Gas Transmission Co., 34 FERC ¶ 61,014 (1986); Midwestern Gas Transmission Co., 34 FERC ¶ 61,110 (1986).

[8] See 18 CFR 154.38(d)(4)(ii) (1985), which provides that pipeline supplier purchased gas costs are to be applied to the downstream pipeline's two-part rates "as-billed." A "two-part" rate is a rate comprised of a demand charge and a commodity charge.

billed" principle does not force variable costs of the downstream pipeline to be treated as if they were still fixed costs simply because they were once fixed costs to the upstream pipeline. Nor does it require minimum bill recovery. The PGA is fully consistent with the as-billed principle.

Typically, a pipeline's fixed costs will be split between its demand charge and its commodity charge. The demand charge the customers pay every month regardless of whether any gas is taken. The commodity charge varies with the amount of gas bought. Thus, a fixed cost of an upstream pipeline included in its commodity charge to the downstream pipeline becomes a variable cost to the downstream pipeline as part of the cost of the gas purchased. Because under the "as-billed" principle the upstream pipeline's commodity charges are included in the downstream pipeline's commodity charge, an upstream pipeline's fixed cost becomes a downstream pipeline's variable cost.

The Commission's consistent practice is to treat a cost incurred by a pipeline as variable if the amount of the cost to that pipeline varies with the amount of gas it buys.[9] Thus, the question of whether a particular cost is fixed or variable for purposes of applying § 154.111 to a downstream pipeline depends on how that cost is paid by the downstream pipeline; not how the cost was originally incurred by the upstream pipeline. The costs at issue here are Tennessee's minimum commodity bill charges. Although these minimum commodity bill charges may be traced back to certain fixed costs that Tennessee incurred, once it was determined to classify those costs to the commodity component of its rates, their recovery by Tennessee and their payment by Midwestern (and all of Tennessee's other customers) was on a variable basis. The amount of the payments varies with the amount of gas purchased. These "costs" are variable purchased gas cost to Midwestern. Likewise, these Tennessee minimum commodity bill charges, *i.e.*, the extra amounts Midwestern pays for failing to take sufficient volumes, are also variable costs to Midwestern. They vary depending on the amount of gas Midwestern buys. The less it buys under its minimum bill level, the more of an extra charge it pays, and vice versa. Therefore, there is nothing inconsistent with the "as-billed" principle in recognizing that upstream pipeline minimum commodity bill charges are in fact variable costs to downstream pipelines and therefore covered by § 154.111.

Moreover, our consistent policy (in place before the rule promulgated in Order No. 380 even was proposed) was to pass through these charges in the downstream pipeline's PGA to all customers. It would be inconsistent with that PGA policy, which is grounded on the Commission's interpretation of its own Uniform System of Accounts, to switch to minimum commodity bill passthrough.[10] In 1982 in *Mississippi River Transmission Corp.*,[11] (MRT) the Commission explained the proper accounting treatment by a downstream pipeline (MRT) of minimum commodity bill payments to an upstream pipeline. In that proceeding, MRT filed revised tariff language to clarify that such payments would be passed through under its PGA clause. The Commission stated:

> MRT maintains that its existing PGA provisions provide for the recovery of pipeline supplier minimum commodity bill charges through the unrecovered purchased gas cost surcharge mechanism, and that the language added on the proposed tariff sheet is merely a clarification, not a substantive change.
>
> We concur with MRT's position. Under the Commission's Uniform System of Accounts, minimum commodity bill charges from pipeline suppliers are properly treated in Account 803, Natural Gas Transmission Line Purchases. Account 165, Prepayments, provides for treatment of payments for undelivered gas under "take [or] pay" provisions of gas purchase contracts where future makeup of the gas not taken is provided for by contract. In the case of MRT's purchases, there are no provisions for future makeup. Therefore, costs incurred by MRT under minimum commodity bill provisions of its pipeline suppliers are properly tracked through Account 803 and are recoverable through the PGA.[12]

Because Tennessee has no make-up provisions in its minimum commodity bill clause, the existing practice when Order No. 380 issued was for Midwestern to pass its upstream minimum bill payments through its PGA. Order No. 380–A did not change that policy or otherwise create a new policy. Therefore, Midwestern had no greater reason *after* Order Nos. 380 and 380–A, than *before* those orders issued, to change that existing rate design policy which requires PGA passthrough of these charges.

The decision in Order No. 380–A to reaffirm the existing PGA policy has a rational basis. That policy is grounded on the standing definition of these charges as part of the cost of "transmission line purchases," which have been subject to the Commission's PGA rules since 1972.[13] Further, the PGA methodology recognizes that so-called "upstream pipeline fixed costs," which include costs incurred years before any downstream pipeline minimum bill obligations arise, benefit all downstream customers. This includes all the customers of a downstream pipeline. The PGA mechanism equitably allocates these "upstream costs" to all customers on the basis of their "use" of the system, *i.e.*, on the basis of the amount of gas they were able to purchase because the gas traversed the upstream pipeline's system.

The fact that Tennessee, Midwestern's affiliated upstream pipeline, may include some of these costs in its minimum commodity bill to Midwestern does not break their nexus to all of Midwestern customers who buy gas from Midwestern.

IV. Policy Of Order 380

This treatment of those costs is also consistent with the Commission's decision to exclude fixed cost minimum bills from the general prohibition of Order 380 and, instead, to deal with fixed cost minimum commodity bills on a case-by-case basis. By now the reason should be self-evident: the costs at issue (upstream pipeline minimum commodity bill charges) are variable costs to the downstream pipeline that pays the charges. The decision in Order No. 380 to continue to deal with fixed cost minimum bills on a case-by-case basis has nothing to do with this issue. Thus, for example, whether Midwestern may use a minimum commodity bill to guarantee recovery of a portion of its imbedded debt service (*i.e.*, a fixed cost *to* Midwestern), is to be resolved in its section 4 rate proceeding.

V. Competitive Disadvantage

Midwestern claims that it has been placed in a competitive disadvantage by Order No. 380 since that order allegedly increased its commodity charges to higher than competitive levels. What Midwestern is arguing, essentially, is

[9] See Order No. 380 at 30,977, note 3; Northwest Alaskan Pipeline Co., 11 FERC ¶ 61,088 at 61,183.

[10] The Commission has previously held that the PGA is "fully consistent" with (indeed, incorporates) the "as-billed" principle. Northwest Alaskan Pipeline Co., 11 FERC ¶ 61,088 at 61,181 (1980). *See* 18 CFR 154.38(d)(4)(ii) (1985).

[11] 18 FERC ¶ 61,304 (1982).

[12] *Id.* at 61,649. PGA passthrough of minimum commodity bill charges is only a fairly recent phenomenon given the fact that PGA's only arose in the 1970's when supply shortages already were generally causing pipelines to take all the gas that they could get. *See* Notice of Proposed Rulemaking, Docket No. RM83–71–000, IV FERC Stat. & Reg. ¶ 32,334 at 32,671 (1983).

[13] See 18 CFR § 154.38(d)(4) note 1 (1985); II FERC Stat. & Reg. ¶ 19,138 at 12,735–3 (*Historical record*).

that it needs to exclude its upstream pipeline supplier minimum commodity bill charges from its PGA, and, instead, to include them in its own minimum commodity bill. In this way, it asserts, it can lower its commodity charges to compete for partial requirements customers on a par with producer supplied pipelines. Midwestern is in error. Midwestern is treated no differently than any other pipeline. To begin, Order No. 380 did not cause an increase in its commodity rates. As noted earlier, our existing policy already provided for PGA passthrough of most upstream pipeline charges. Secondly, Midwestern's proposal would actually give it an unfair competitive advantage over other pipelines. In effect, it would like to include additional costs in its minimum bills in order to discourage its partial requirements customers from buying gas from its competitors. Midwestern, in specific, and downstream pipelines, in general, should not be allowed to have an extra increment of costs in their minimum bills that places them in an advantageous position, vis-a-vis other pipelines. Yet, Midwestern suggests that the Commission do precisely that.

If Midwestern's point is simply that Midwestern's commodity charges are higher, and less competitive, with the inclusion of these charges than without, then the point is self-evident. But it does not justify changing our existing PGA policy. Nor does the possibility of a competitive disadvantage justify the use of a minimum commodity bill to recover these charges. In *Natural Gas Pipeline Co. of America,*[14] we held that the argument that a minimum commodity bill is required for the pipeline to remain competitive in its market area does not meet the goals of any recognized criteria and therefore cannot justify minimum bill recovery of these costs.

Ultimately, the solution to any alleged competitive problems is for the downstream pipeline, such as Midwestern, to bargain down the price it pays for its gas, including seeking waiver or elimination of the upstream pipeline's minimum commodity bill.[15] A downstream pipeline has just as much of an obligation to pursue a least-cost purchasing strategy as a producer-supplied pipeline.[16]

VI. Who Should Pay The Fixed Costs

Midwestern suggested that the Commission should regard Midwestern and Tennessee as just one pipeline company. For reasons known best to Midwestern, that particular form of business organization was not selected by the two companies. The Commission is not at liberty to disregard completely the business organization selected and used for many years by those two companies. In any event, we are unable to conclude that a minimum-billed customer in a two-pipeline situation necessarily pays less of the "upstream segment's" fixed costs than a minimum-billed customer in a one-pipeline situation such that an inequity results. Turning to Midwestern's analogy to a single, unified pipeline system, it is not merely an "incidental fact" that an upstream pipeline sells gas to a downstream pipeline such that we can treat them as one. The differences in cost allocation and rate design that can exist between the two companies can result in a different allocation of the "upstream segment's" total fixed costs to a given customer than would result if only one pipeline is involved.[17] We cannot assume, as Midwestern does, that a perfect one-to-one relationship exists between a two-pipeline and a one-pipeline situation.

Furthermore, there are a number of other problems with Midwestern's arguments. It asserts that, under Order No. 380–A, the upstream segment's (*i.e.*, Tennessee's) fixed costs are inequitably being shifted from those who cause them (Midwestern's customers who fail to buy their minimum volume levels) to those who do not cause them (*i.e.*, all the rest of Midwestern's customers). First, it is apparent that the dual themes of fixed cost recovery and cost causation and responsibility are inconsistent with one another. The "upstream segment's fixed costs" that Midwestern seeks to impose exclusively on the downstream pipeline's minimum-billed customers were not "caused" by the actions of those customers in reducing takes below their minimum bill levels. A portion of the upstream "segment's" fixed costs were incurred in the construction of a system designed to serve many customers. Other fixed costs, such as the cost of equity capital, relate to those same costs. By definition, fixed costs do not vary with throughput. Therefore, they cannot be caused by (or even affected by) changes in throughput caused by Midwestern's minimum billed customers. There simply is no casual connection between the incurrence of those upstream "fixed costs" and the later actions of only a limited number of downstream customers.[18] Second, Midwestern's arguments prove too much. Consistent with its arguments there would be no reason why the distinction between the upstream pipeline and a producer-supplier should not be dropped for purposes of all downstream pipeline rate matters. We did not intend such a result in Order No. 380. All of a producer's costs are recovered under a contract that provides for volumetric or MMBtu-related variable gas rates. These charges are variable purchased gas costs to the purchasing pipeline and passed through to its customers in its PGA. We intended no change in that policy. Third, Midwestern's proposed methodology is inconsistent with its notions of fixed cost recovery. It irrationally results in the downstream minimum billed customers being obligated to pay an increased minimum bill to permit the "recovery" of the upstream pipeline's fixed costs, when the upstream pipeline has already recovered those costs via its own minimum commodity bill.[19] Obviously, these theories of cost recovery and causation rest on determining who caused the downstream pipeline to pay minimum commodity bill charges; not who caused or who should recover the upstream "fixed costs." One must ignore the

[14] 31 FERC ¶ 61,380 at 61,851 (1985), *reh'g denied*, 33 FERC ¶ 61,272 (1985). In that case, Natural Gas Pipeline Company of America (NGPL) sought to have its commodity rates lowered to a level below those of its competitors (including Midwestern) by exactly the unit amount of its competitors' minimum commodity bills. The amounts thus removed from NGPL's commodity rates were then to be recovered in its proposed minimum commodity bill. We rejected NGPL's proposal.

[15] *See* Great Lakes Gas Transmission Co., *et al.*, 29 FERC ¶ 61,135 at 61,277 (1984).

[16] In Order No. 380–A, FERC Stat. & Reg. [Regulations Preambles 1982–1985] ¶ 61,584 at 31,044, we stated that if a pipeline's rates are too high to attract customers, it will need to find ways to reduce rates in order to compete.

[17] A customer in the upstream/downstream situation may pay a different total amount of upstream fixed costs depending on how much is allocated to its demand charge, how much to its commodity charge, and how much to its minimum commodity bill.

[18] The PGA mechanism properly recognized that all customers should share in the recovery of upstream fixed costs based on their usage of the system. And that is what normally happens anyway even under Midwestern's proposal, for these very same costs are otherwise recovered in its commodity rates from all customers. The PGA policy regarding upstream minimum commodity bill charges simply maintains that method of cost allocation and rate design.

[19] Perceiving these charges as "fixed costs" also flies in the face of the first *Seaboard* criteria, fixed cost recovery. If the pipeline who incurred these costs has recovered them, then there is nothing more to recover from the downstream customers. Clearly, *Seaboard* was concerned with a pipeline's recovery of its own fixed costs on its own behalf, not someone else's costs on someone else's behalf. The reality is that Midwestern is attempting to use a minimum commodity bill to recover its own *variable* costs which cannot be supported by the first of the *Seaboard* criteria.

"upstream fixed cost" label to be able to allocate these charges consistent with Midwestern's proposal.

Notwithstanding Midwestern's argument that these charges are "fixed costs to Midwestern," there still is no inherent causal relationship, or nexus, between the incurrence of the upstream minimum commodity bill charges and the actions of *only* those downstream customers who happen to be paying their own minimum commodity bill charges. The upstream charges are a function of the total takes of all customers on the downstream system coupled with the actions of the downstream pipeline itself. For example, there may be occasions when the downstream pipeline's total takes are great enough so that it does not incur a minimum commodity bill charge, even though one of its customers is below its own minimum take level and is incurring a minimum commodity bill to Midwestern. But what if, after a while, the other customers who have minimum commodity bill tariff provisions collectively reduce their takes down to, but not below, their respective minimum take levels while the minimum-billed customer maintains its existing level? The downstream pipeline would now begin to incur minimum commodity bill charges.[20] But who "caused" them? Surely it was the combined actions of all customers, not just the loan minimum-billed customer. Accordingly, Midwestern's proposal can result in a disportionate burden on the downstream pipeline's minimum-billed customers who are only partially responsible for the upstream charges. As the Commission observed in Order No. 380 in discussing the analogous question of cost causation and responsibility regarding take-or-pay carrying costs:

> When the system as a whole cannot keep load factors high, swing customers should not be required to subsidize captive customers for take-or-pay costs.[21]

On balance, the PGA methodology is more equitable (and more rational) than Midwestern's. If inequities arise in an individual case, customers who believe they are harmed may raise specific claims in the downstream pipeline's next PGA or section 4 rate case, or may initiate a separate complaint proceeding.[22]

VII. Conclusion

Order No. 380–A, relative to the Commission's existing policy of passing through upstream pipeline minimum commodity bill charges in downstream pipeline PGA's, is affirmed.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–14686 Filed 6–27–86; 8:45 am]

BILLING CODE 6717–01–M

[20] The situation can be further exacerbated if the downstream pipeline has more than one supplier and chooses to swing over and take cheaper gas from another supplier and less from the supplier who has a minimum commodity bill. It would hardly be equitable to channel *all* of the resulting minimum bill charges to a single downstream customer who happens to be incurring a minimum bill, when all customers on the system benefit from the pipeline's actions. We note that in a withdrawal of a recent out-of-cycle PGA filing, Midwestern asserted that it has secured gas supplied from suppliers other than Tennessee. *See* Midwestern Gas Transmission Co., 33 FERC ¶ 61,005 at 61,004 (1985).

[21] FERC Stat. & Reg. [Regulations Preambles 1982–1985] ¶ 30,571 at 30,971.

[22] *See* Order No. 380–B, 29 FERC ¶ 61,096 at 61,156 (1984); Great Lakes Gas Transmission Co., *et al.*, 30 FERC ¶ 61,263 at 61,555–56 (1985). Contrary to Midwestern, our position is not inconsistent with Midwestern Gas Transmission Co., 28 FERC ¶ 61,338 (1984). In that case, the Commission approved a direct-billing arrangement in which the downstream pipeline customer actually agreed to directly pay the upstream pipeline for its minimum commodity bill charges as part of a negotiated settlement.

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18 CFR Part 282

[Docket No. RM 79–14]

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

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order prescribing incremental pricing thresholds.

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

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Raymond A. Beirne, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, (202) 357–8500.

SUPPLEMENTARY INFORMATION:

Publication of Prescribed Incremental Pricing Acquisition Cost Threshold of the NGPA of 1978

Order of the Director, OPPR

Issued: June 25, 1986.

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

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of July, 1986 are issued by the publication of a price table for the month. The incremental pricing acquisition cost threshold prices for months prior to those reflected on the table are found in § 282.304.

The incremental pricing thresholds for July, 1986 reflect a two-month lag adjustment described in the notice of the March 1, 1986 thresholds.

List of Subjects in 18 CFR Part 282

Natural gas.

Raymond A. Beirne,

Acting Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

[Calendar year 1985]

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental pricing threshold	$2.373	$2.378	$2.383	$2.388	$2.399	$2.410	$2.421	$2.427	$2.433	$2.439	$2.446	$2.453
NGPA section 102 threshold	3.869	3.890	3.911	3.932	3.962	3.992	4.022	4.045	4.068	4.091	4.116	4.141
NGPA section 109 threshold	2.452	2.457	2.462	2.467	2.478	2.489	2.500	2.506	2.512	2.518	2.525	2.532
130 pct of No. 2 fuel oil in New York City threshold	7.170	7.310	7.090	6.920	7.210	7.120	7.400	7.000	6.520	6.630	6.940	7.140

[Calendar year 1986]

	Jan.	Feb.	Mar.	Apr.	May	June	July					
Incremental pricing threshold	$2.460	$2.467	$2.474	$2.481	$2.487	$2.493	$2.499					
NGPA section 102 threshold	4.166	4.191	4.216	4.241	4.264	4.287	4.310					
NGPA section 109 threshold	2.539	2.546	2.553	2.460	2.566	2.572	2.578					
130 pct of No. 2 fuel oil in New York City threshold	7.370	7.930	5.040	5.290	4.680	3.980	3.800					

[FR Doc. 86-14634 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 85F-0177]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

Correction

In FR Doc. 86-11842 appearing on page 19168 in the issue of Wednesday, May 28, 1986, make the following corrections:

§ 178.3297 [Corrected]

1. In the third column, in § 178.3297 (e), first column of the table, fifth line, "diminoibis-" should read "diimino]bis-", and in the seventh line, "anthtracene-" should read "anthracene-".

2. In the second column of the table, second line, "phtholate" should read "phthalate" and in the third line, the dollar sign should be a section symbol.

BILLING CODE 1505-01-M

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

22 CFR Ch. XVI

Chapter Assignment

Editorial Note: In Title 22 of the Code of Federal Regulations, Chapter XVI has been assigned to the Japan-United States Friendship Commission. Chapter XVI will consist of Parts 1600-1699. Part 1600 was added to Title 22 on June 23, 1986 (51 FR 22891) and will be codified in "Chapter XVI—Japan-United States Friendship Commission".

This chapter assignment is made pursuant to 1 CFR 8.2.

BILLING CODE 1505-02-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2644

Notice and Collection of Withdrawal Liability; Adoption of New Interest Rate

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Notice and Collection of Withdrawal Liability. That regulation incorporates certain interest rates published by another federal agency. The effect of this amendment is to add to the appendix of that regulation a new interest rate to be effective from July 1, 1986, to September 30, 1986.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: John Carter Foster, Attorney, Multiemployer Regulations Group, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; telephone 202-956-5050 (202-956-5059 for TTY and TDD).

SUPPLEMENTARY INFORMATION: On May 31, 1984, the Pension Benefit Guaranty Corporation (the "PBGC") published a final regulation on Notice and Collection of Withdrawal Liability.

That regulation, codified at 29 CFR Part 2644, deals with the rate of interest to be charged by multiemployer pension plans on withdrawal liability payments that are overdue or in default on or after July 2, 1984 (the effective date of the regulation), or to be credited by such plans on overpayments of withdrawal liability made on or after that date. The regulation allows plans to set such rates, subject to certain restrictions. Where a plan does not set such rates, § 2644.3(b) of the regulation provides that the rate to be charged or credited for any calendar quarter is the average quoted prime rate on short-term commercial loans for the fifteenth day (or next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates").

Since the regulation incorporates interest rates published in Statistical Release H.15, that release is the authoritative source for the rates that are to be applied under the regulation. As a convenience to persons using the regulation, however, the PBGC collects the applicable rates and republishes them in an appendix to Part 2644. See 50 FR 39664 (September 30, 1985), 50 FR 53313 (December 31, 1985), and 51 FR 10826 (March 31, 1986). This amendment adds to this appendix the interest rate of 8½ percent, which will be effective from July 1, 1986, to September 30, 1986. This rate represents a decrease of ½ percent from the rate in effect for the second quarter of 1986. This rate is based on the prime rate in effect on June 16, 1986, as reported by the Federal Reserve in Statistical Release H.15.

The appendix to 29 CFR Part 2644 does not prescribe interest rates under the regulation; the rates prescribed by the regulation are those published in Statistical Release H.15. The appendix merely collects and republishes the rates in a convenient place. Thus, the interest rates in the appendix are informational only. Accordingly, the PBGC finds that notice of, and public comment on this amendment would be unnecessary and contrary to the public interest. For the above reasons, the PGBC also believes that good cause exists for making this amendment effective immediately.

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2644

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2644 of Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

1. The authority citation for Part 2644 continues to read as follows:

Authority: Secs. 4002(b)(3) and 4219(c), Pub. L. 93–406, as amended by secs. 403(1) and 104 (respectively), Pub. L. 96–364, 94 Stat. 1208, 1302 and 1236–1238 (1980) (29 U.S.C. 1302(b)(3) and 1399(c)(6)).

2. Appendix A is amended by adding to the end of the table of interest rates therein the following new entry:

From	To	Date of quotation	Rate (percent)
*	* *	*	*
07/01/86	09/30/86	06/16/86	8.50

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–14688 Filed 6–27–86; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 16 and 17

Withdrawal of final rules removing 30 CFR Parts 16 and 17

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Withdrawal of final rule.

SUMMARY: The effect of this notice is to restore Parts 16 and 17 to Title 30 of the Code of Federal Regulations. This action is taken for reasons of economy. Final rules were published on June 20, 1986 (51 FR 22519–22520) which would have removed obsolete approval requirements for stemming and blasting devices from Title 30 on July 21, 1986 (FR Docs. 86–13987, and 86–13986). The removal of these parts at this time would have necessitated republication of Title 30, Parts 0 to 199, which is revised as of July 1 of each year. By withdrawing these actions, it will not be necessary to republish this volume of Title 30, resulting in significant savings to the government. There have been no other substantive changes to this volume since its last republication. Parts 16 and 17 will be removed in a final rule to be published in July 1986.

EFFECTIVE DATE: June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, phone (703) 235–1910.

Accordingly, the final rules removing 30 CFR Parts 16 and 17 which were published at 51 FR 22519–22520 on June 20, 1986, are withdrawn.

Dated: June 25, 1986.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 86–14693 Filed 6–27–86; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 4

[CGD 86–043]

OMB Control Numbers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), requires generally, that all regulations which contain recordkeeping or reporting requirements must be approved by the Director, Office of Management and Budget (OMB). Once approved, these regulations are assigned an OMB Control Number. OMB Control Numbers for regulations within Title 33, Code of Federal Regulations are displayed in a Table appearing at 33 CFR 4.02. This document updates the table to display OMB Control Numbers assigned to certain regulations within Parts 151, 157 and 158.

EFFECTIVE DATE: June 30, 1986.

FOR FURTHER INFORMATION CONTACT: LT Sandra Sylvester, (202) 426–1534.

SUPPLEMENTARY INFORMATION: This final rule was not preceded by a notice of proposed rulemaking and is being made effective in less than 30 days. This rule merely displays existing OMB Control Numbers pertaining to specific Coast Guard regulations for the public's information. Therefore the Coast Guard has determined that notice and comment procedure are unnecessary under the Administrative Procedure Act [5 U.S.C. 553(b)(B)]. Since this rule has no substantive effect, good cause exists to make this rule effective in less than thirty days under 5 U.S.C. 553(d)(3).

Drafting Information

This rule was drafted by LT Sandra R. Sylvester, Office of Chief Counsel, Regulations and Administrative Law Division.

Regulatory Evaluation

This regulation is considered to be non-major under Executive Order 12291, and non-significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule merely displays existing OMB Control Numbers and imposes no new substantive requirements. Since the impact of this rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 4

Reporting requirements.

PART 4—[AMENDED]

In consideration of the foregoing, Part 4 of Chapter I, Title 33, Code of Federal Regulations, is amended to read as follows:

1. The authority citation for Part 4 continues to read as follows:

Authority: 44 1U.S.C. 3507; 49 CFR 1.45(a).

2. The table in § 4.02 is amended by adding new entries in order to read as follows:

§ 4.02 Display.

* * * * *	
PART 151	2115–0544
* * * * *	
PART 157	2115–0520
PART 158	2115–0543
* * * * *	

Dated: June 24, 1986.

Edwin H. Daniels,

Chief Counsel,

[FR Doc. 86–14677 Filed 6–27–86; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD3 86–27]

Special Local Regulations; Fourth of July Weekend Coney Island Air Show

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Fourth of July Coney Island Air Show. This event is sponsored by the Coney Island Chamber of Commerce. The event will be held on July 2, 3, 4, 5, and 6, 1986 off Coney Island Beach, New York and will

involve the "Patrouille De France" French jet aircraft team. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

EFFECTIVE DATES: This regulation is effective on July 2, 3, 4, 5, and 6, 1986 from 12:30 p.m. to 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668–7974.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received until June 3, 1986. In addition, due to Fourth of July New York Harbor Liberty/OPSAIL'86 activities, extra time was needed to identify Coast Guard patrol craft that could be detailed to provide for the safety of the event on July 4, 1986. These factors delayed processing of the regulation thus there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information:

The drafters of this regulation are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Fourth of July Weekend, Coney Island Air Show is sponsored by the Coney Island Chamber of Commerce. The French "Patrouille De France" Jet Aerobatic Team will put on a special air show during each day of the effective period from 1:30 p.m. to 2:00 p.m. over the waters off Coney Island in Brooklyn, New York. This air show is well known to the boaters and residents alike in this area, as similar events have been held in past years. The Federal Aviation Administration requires that all vessels be kept out of the area under the flight line (show area). The Coast Guard expects a very large spectator fleet for this popular event. The rectangular regulated area is 6,000 feet long along the shore and extends out 3,000 feet offshore. The regulated area will be marked by Coast Guard, Coast Guard Auxiliary, and local law enforcement agency vessels. In order to provide for the safety of both participants and spectators, the Coast Guard will close the regulated area to all marine traffic.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35–327 to read as follows:

§ 100.35–327 Fourth of July Weekend, Coney Island Air Show, New York.

(a) *Regulated Area:* Atlantic Ocean, off Coney Island, New York in the rectangular area north of a line connecting latitude 40 degrees 33 minutes 47.0 seconds north, longitude 73 degrees 59 minutes 22.0 seconds west and latitude 40 degrees 33 minutes 52.8 seconds north, longitude 73 degrees 58 minutes 04.0 seconds west.

(b) *Effective Period:* This regulation will be effective from 12:30 p.m. to 3:00 p.m. on July 2, 3, 4, 5, and 6, 1986.

(c) *Special Local Regulations:*

(1) The regulated area will be closed to all vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area when it is closed unless authorized by the sponsor or the Coast Guard Patrol Commander.

(2) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(3) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: June 19, 1986.

D. C. Thompson,

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

[FR Doc. 86–14676 Filed 6–27–86; 8:45 am]

BILLING CODE 4910–14–M

LIBRARY OF CONGRESS

36 CFR Part 701

Organization, Policies and Procedures

Correction

In FR Doc. 86–13620 beginning on page 22072 in the issue of Wednesday, June 18, 1986, make the following corrections:

§ 701.32 [Corrected]

On page 22075, in the second column, in amendatory instruction 24 and in the section heading immediately following it, "§ 701.23" should read "§ 701.32".

BILLING CODE 1505–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1228, 1236, 1239

Records Management

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: This rule revises NARA records management regulations relating to disposal of records by adding a provision that destruction of restricted records may be witnessed by contractor employees when an agency agrees. This change would allow the National Archives and Records Administration (NARA) to reduce the cost of this type of records disposal. This rule also removes obsolete regulations governing preservation of records by war contractors and makes minor technical and editorial corrections to other records management regulations.

EFFECTIVE DATE: June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202–523–3214 (FTS 523–3214).

SUPPLEMENTARY INFORMATION: NARA issued a notice of proposed rulemaking on May 13, 1986 (51 FR 17497) that included proposed regulations on audiovisual records management in addition to the subjects contained in this regulation. We have decided to issue a separate final rule relating to audiovisual records management because of the need to obtain approval from the Director of the Federal Register

to incorporate by reference certain materials in the regulation. We expect to issue this rule shortly.

This rule makes several minor changes to 36 CFR Part 1228, Disposition of Federal Records, and one substantive change. The title of General Records Schedule 24 is corrected and General Records Schedule 25, Inspector General Records, is added to the list of current general records schedules in 36 CFR 1228.22. Section 1228.162(a) is revised to remove the reference to purchasing Standard Form 180, Request Pertaining to Military Records, from the Superintendent of Documents since the Superintendent of Documents no longer stocks the form for sale.

Section 1228.74 is modified to allow contractor employees to witness the destruction of restricted records when the agency which created the records authorizes such an action. One agency submitted comments in response to the notice of proposed rulemaking which addressed this section. The agency recommended that the reference to disposal of restricted records be modified to provide guidance relating to safeguarding of records subject to the Privacy Act prior to their disposal. In addition to the Privacy Act, there are other laws concerning unauthorized disclosure of information such as sections 7213 and 7431 of the Internal Revenue Code. We believe that agencies should include the specific guidance and safeguards in the sales contracts or agreements, citing the appropriate civil and criminal provisions of applicable laws. As suggested in the comments, we have clarified the definition of records other than paper and the prohibition on resale of records for use as records or documents.

References in Part 1228 to the General Services Administration regulations on approval of interagency reports have been revised to reflect those regulations' new location in 41 CFR Part 201–45. In 36 CFR 1236.8, a reference to the Federal records center in Mechanicsburg, PA, which has been closed, is deleted.

36 CFR Part 1239, Preservation of Records by War Contractors, is removed since this regulation is obsolete and a revised regulation is not needed.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects

36 CFR Parts 1228, and 1236

Archives and records.

36 CFR Part 1239

Archives and records, Government property management, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 36 of the Code of Federal Regulations is amended as follows:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for Part 1228 continues to read as follows:

Authority: 44 U.S.C. 2104(a).

2. Section 1228.22(b) is amended by revising General Records Schedule 24 and adding General Records Schedule 25 to read as follows:

§ 1228.22 General Records Schedules.

Schedule Number and Type of Records Governed:

24. Temporary Commissions, Committees, and Boards Records

25. Inspector General Records.

3. Section 1228.74 is amended by revising paragraph (b) to read as follows:

§ 1228.74 Methods of disposal.

* * * * *

(b) *Sale or salvage.* Paper records to be disposed of normally must be sold as wastepaper. If the records are defense classified, their disposal is governed by Executive Order 12356. If the records are restricted; that is, if laws or regulations forbid their use by the public, the wastepaper contractor must be required to pulp, macerate, or shred the records, and their destruction must be witnesses either by a Federal employee or, if authorized by the agency that created the records, by a contractor employee. The contract for sale must prohibit the resale of all other paper records for use as records or documents. Records other than paper records (audio, visual, and data tapes, disks, and diskettes) may be salvaged and sold in the same manner and under the same conditions as paper records. All sales must be in accordance with the established procedures for the sale of surplus personal property. (See 41 CFR Part 101–45, Sale, Abandonment, or Destruction of Personal Property.)

* * * * *

4. Section 1228.92 is amended by revising paragraph (e) to read as follows:

§ 1228.92 Menaces to human life or health or to property.

* * * * *

(e) This report has been cleared in accordance with 41 CFR Part 201–45 and assigned Interagency Report Control Number 1095–NAR–AR.

5. Section 1228.104 is amended by revising paragraph (b) to read as follows:

§ 1228.104 Reporting.

* * * * *

(b) This report has been cleared in accordance with 41 CFR Part 201–45 and assigned Interagency Report Control Number 0285–NAR–AR.

* * * * *

6. Section 1228.162 is amended by revising paragraph (a) to read as follows:

§ 1228.162 Use of records in Federal records centers.

* * * * *

(a) Standard Form 180, Request Pertaining to Military Records, shall be used by Federal agencies to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). Agencies may furnish copies of that form to the public to aid in inquiries.

* * * * *

PART 1236—VITAL RECORDS DURING AN EMERGENCY

7. The authority citation for Part 1236 continues to read as follows:

Authority: 44 U.S.C. 2104(a).

§ 1236.8 [Amended]

8. Section 1236.8 is amended by removing in paragraph (a) the words "(except the FRC in Mechanicsburg, PA)".

PART 1239—PRESERVATION OF RECORDS BY WAR CONTRACTORS [REMOVED AND RESERVED]

9. Part 1239 is removed and reserved.

Dated: June 18, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86–14583 Filed 6–27–86; 8:45 am]

BILLING CODE 7515–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS–50555]

Toxic Substances; Significant New Use Rule; Technical Amendment; Change of Address

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This document announces a change of address for persons submitting *bona fide* request information under 40 CFR 721.6. This is a non-substantive change that does not require public comment.

DATE: This final rule is effective June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, DC, Toll free: (800–424–9065), In Washington, DC (554–1404), Outside the USA: (Operator–202–554–1404).

Dated: June 23, 1986.

Edwin F. Tinsworth,

Acting Director, Office of Toxic Substances.

PART 721—[AMENDED]

Therefore, 40 CFR Part 721 is amended to read as follows:

1. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. In § 721.6 by revising the introductory text of paragraph (b) to read as follows:

§ 721.6 Applicability determination when the specific chemical identity is confidential.

* * * * *

(b) To establish a *bona fide* intent to manufacture, import, or process a chemical substance, the person who intends to manufacture, import, or process the chemical substance must submit the following in writing to the Office of Toxic Substances, Document Control Officer, Rm. E–201, TS–790, 401 M St., SW., Washington, DC 20460:

* * * * *

[FR Doc. 86–14746 Filed 6–27–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 721

[OPTS–50503B]

Toxic Substances; Significant New Use Rule; Isopropylamine and Ethylamine Distillation Residues; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Correction.

SUMMARY: This document corrects a rule on isopropylamine distillation residues and ethylamine distillation residues that published in the **Federal Register** of November 26, 1984 (49 FR 46373). This action is necessary to change the section number that was assigned to the above chemicals.

EFFECTIVE DATE: This rule becomes effective on June 30, 1986.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Federal Register Staff (TS–788), Office of Pesticides and Toxic Substances, Rm. 603, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202–382–3517).

SUPPLEMENTARY INFORMATION: Section 721.170 is redesignated as § 721.370.

Dated: June 23, 1986.

Edwin F. Tinsworth,

Acting Director, Office of Toxic Substances.

[FR Doc. 86–14745 Filed 6–27–86; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-40

[FPMR Temporary Regulation A–24, Supp. 2]

Use of Travel Agents and Travel Management Centers (TMC's) by Federal Executive Agencies

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of FPMR Temporary Regulation A–24 and its supplement 1 to May 25, 1987.

DATES: Effective date: May 25, 1986. Expiration date: May 25, 1987.

FOR FURTHER INFORMATION CONTACT: Charles T. Angelo, Director, Travel and Transportation Management Division (FTS 557–1261/(703) 557–1261.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–40

Freight, Government property management, Moving of household goods, Office relocation, Transportation.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

Federal Property Management Regulations—Temporary Regulation A–24; Supplement 2

To: Heads of Federal agencies.

Subject: Use of travel agents and travel management centers (TMC's) by Federal executive agencies.

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A–24 and supplement 1 thereto.

2. *Effective date.* This regulation is effective May 25, 1986.

3. *Expiration date.* This regulation expires May 25, 1987, unless sooner canceled or revised.

4. *Explanation of changes.* The expiration dates in paragraph 3 of FPMR Temporary Regulation A–24 and supplement 1 thereto are revised to May 25, 1987.

T.C. Golden,

Administrator of General Services.

May 25, 1986.

[FR Doc. 86–14665 Filed 6–27–86; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF THE INTERIOR

41 CFR Part 114–50

Uniform Relocation Assistance and Real Property Acquisition; Final Rule; Correction

AGENCY: Department of the Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on relocation assistance and real property acquisition which appeared at page 7000 in the **Federal Register** of Thursday, February 27, 1986, (51 FR 7000).

EFFECTIVE DATE: May 28, 1986.

FOR FURTHER INFORMATION CONTACT: Billy Lee Hart, Chief, Division of Real Property Management, Office of Acquisition and Property Management, Room 5517, Department of the Interior, Washington, DC 20240, (FTS or 202) 343–3336.

SUPPLEMENTARY INFORMATION: The following correction is made in 41 CFR Part 114–50, on page 7019, first column, the amendment to Appendix A in paragraph i, line 3, change §§ 114–50.31 to §§ 114.50.311.

Gerald R. Riso,

Assistant Secretary.

[FR Doc. 86–14656 Filed 6–27–86; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Reimbursement Rates for Health Care Services Authorized Under the Indian Health Service Contract Health Service Regulations

AGENCY: Public Health Service, Health Resources and Services Administration (HHS).

ACTION: Issuance of statement of policy.

SUMMARY: The Indian Health Service (IHS) is issuing this Statement of Policy to inform the public that the IHS will contract to purchase health services for Indian beneficiaries only with those hospitals, physicians and other health care providers which agree to accept, as payment in full, reimbursement at rates no higher than the prevailing Medicare allowable rates (including deductibles and co-payments). This encompasses those rates established for hospitals designated by the Health Care Financing Administration as "sole community providers" or "regional referral centers." Reimbursement rates for services not covered by Medicare allowable rates will be negotiated. In addition, the IHS will refer patients and/or arrange for the transfer of patients to IHS facilities or contract providers, so that non-contract providers will be used only in two situations: (1) In emergency situations for services necessary to stabilize a patient prior to transfer to an IHS facility or to a contract provider, and (2) in situations when the patient's health requires that the services be rendered by a particular provider which may not have a contract with the IHS.

The IHS will phase this policy into the administration of its contract health services programs. We may, upon further consideration and after consultation with tribal contractors, extend this policy to tribally administered contract health services programs. While tribal contractors are encouraged to adopt cost containment measures, this policy will apply only to contract health services programs administered by the IHS.

EFFECTIVE DATE: June 27, 1986.

FOR FURTHER INFORMATION CONTACT: Jim Mitchell, Acting Director, Division of Health Support Activities, Room 6–22, 5600 Fishers Lane, Rockville, Md. 20857 (301) 443–2694 (This is not a toll free number).

SUPPLEMENTARY INFORMATION: The IHS contract health services program is administered under regulations at 42 CFR 36.21 *et seq.* Under the program the IHS purchases health services from hospitals, physicians and other health care providers to supplement the IHS direct delivery system. The regulations at 42 CFR 36.24 require that contract health services must be authorized by the IHS or no payment will be made. Non-emergency services must be pre-authorized and emergency services will only be authorized if the IHS is notified within 72 hours of the patient's admission for emergency treatment. As part of the authorization process, the IHS both refers patients and arranges for patient transfers to particular providers.

Although the IHS has obtained discounts from some providers through competitive contracting processes, generally the IHS has had to pay full billed charges for contract health services. The billed charges which IHS pays substantially exceed allowable Medicare rates for the same services. This diminishes the purchasing power of the IHS contract health services dollar. In order to stay within limited program budgets, the IHS has been forced to rely upon stringent medical priorities for use of contract health services funds. As a result, the IHS must ignore or postpone legitimate needs of Indian beneficiaries for services in part because the IHS is paying for contract health services at rates which exceed the allowable reimbursement rates paid by other agencies within this Department.

As explained above, under current regulations at 42 CFR § 36.24, the IHS may refer patients and arrange for the transfer of patients to particular providers as part of the process for authorizing contract health services. Under the policy published in this notice, the IHS will refer patients and/or arrange for the transfer of patients to IHS facilities or contract providers, so that non-contract providers will be used only in two situations:

(1) In emergency situations for services necessary to stabilize the patient prior to transfer to an IHS facility or contract provider. In order for contract health services to be authorized an IHS physician designated by the IHS service unit director must determine, on a case by case basis, that use of the non-contract provider an the services rendered were appropriate and reasonable under the circumstances.

(2) In situations when the individual patient's health requires that the services be rendered by a particular provider which may not have a contract with the IHS. In order for contract health services to be authorized, an IHS physician designated by the IHS Service Unit Director must document and recommend to the Service Unit Director that services from the particular non-contract provider are justified under the circumstances. The physician's recommendation must identify the cost of the services and must be approved by the IHS Service Unit Director.

In these two situations, the IHS will pay non-contract providers pursuant to individual purchase orders. All other requirements applicable to authorization of contract health services under the regulations at 42 CFR 36.21 et seq. must also be met.

The IHS will contract only with those hospitals, physicians and other health care providers which agree to accept, as payment in full, reimbursement at rates no higher than the prevailing Medicare allowable rates (including deductibles and co-payments). This encompasses those rates established for hospitals designated by the Health Care Financing Administration as "sole community providers" or "regional referral centers." Reimbursement rates for services not covered by Medicare allowable rates will be negotiated. The IHS will phase this policy into the administration of its contract health services programs.

The term "Medicare allowable rate" in this notice means one hundred percent (100%) of the Medicare allowable rate for that service (including deductibles and co-payments) determined in accordance with Medicare methodologies in effect at the time the services were performed.

We emphasize that any contract entered into by the IHS would be premised upon IHS payment being accepted by the provider *as payment in full.* We do not intend to leave Indian beneficiaries liable for any difference between the Medicare allowable rates (including deductibles and co-payments) and the provider's billed charges.

We also emphasize that under this policy, the IHS will contract *at or below* the Medicare rate. We believe that the IHS should pay no more than other Federal agencies for the same services. Therefore, we have adopted the Medicare allowable rate as a ceiling on what the IHS will contract to pay for services covered by Medicare rates. The IHS will use competitive processes to negotiate the most favorable rates available within that ceiling. This policy is not intended to restrict the IHS to Medicare rates when more favorable rates may be negotiated.

We note that this policy will apply only to contract health services programs administered by the IHS, and will not apply to services rendered by traditional Indian medicine men and

women under the Indian Religion Freedom Act, Pub. L. 95–341.

Dated: May 28, 1986.

John Kelso,

Acting Administrator, Health Resources and Services Administration.

[FR Doc. 86–14630 Filed 6–27–86; 8:45 am]

BILLING CODE 4160–15–M

Health Care Financing Administration

42 CFR Parts 405, 409, and 442

[BERC–197–F]

Medicare and Medicaid; Miscellaneous Medicare and Medicaid Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Confirmation and amendment of interim final rules.

SUMMARY: These rules confirm interim final rules published in October 1982, and make the following changes:

1. Provide that a physician who serves without compensation as an officer or director of any home health agency (HHA) is not, for that reason alone, considered to have a significant financial or contractual relationship with the HHA and therefore is not prohibited from certifying the need for home health services and establishing and reviewing a plan of treatment for services to be furnished by that HHA.

2. Remove the provision that a physician who is a partner in an HHA organized as a partnership is, for that reason alone, considered to have a significant ownership interest in the HHA. Under the revised rule, a partner is not prohibited from certifying the need for home health services and establishing and reviewing a plan of treatment for services to be furnished by that HHA, unless he or she has an ownership interest of 5 percent or more.

3. Provide that, effective July 18, 1984, the "significant ownership interest in, or significant financial or contractual relationship with" prohibition does not apply to an HHA that is a sole community HHA, and set forth conditions and procedures for classification as a sole community HHA.

4. Clarify that salaries employment (as well as a contract for services) is a business transaction subject to the $25,000 or 5 percent limitation.

5. Reflect two amendments made by section 952 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499). Those amendments provide that a doctor of podiatric medicine (as well as a doctor of medicine or osteopathy) may, if specified conditions are met—

- Establish a plan of treatment for home health services; and
- Be considered a physician for fulfilling the requirement that home health services be furnished while the beneficiary is "under the care of a physician". A conforming change was required in § 409.52(b) of the Medicare rule. A conforming change was required in § 409.42(b)(2) of the Medicare rules.

6. Restore provisions that pertain to the timing and signature of certification of need for home health services. Those provisions were contained in previous rules and were unintentionally omitted in the October 1982 revisions.

7. Clarify that—

- A plan of treatment for speech pathology services may be established only by a physician or by the speech pathologist who will furnish the services to the particular individual;
- A physician must review a plan established by a speech pathologist; and
- It is not the intent to require that the plan be established or reviewed by a particular physician.

The first and third changes are required to implement recent statutory amendments which provide exemptions from the prohibitions enacted by the Omnibus Reconciliation Act of 1980. The second change removes the provision that a physician be considered to have a significant ownership interest merely because he or she is a partner in the HHA. A partner would be subject to the limitation if his or her share in the HHA meets the criteria for "significant ownership interest". The changes are also responsive to public comments which had convinced us that—

- The definitions of "significant ownership interest" and "significant financial or contractual relationship" that we published in October 1982 were not required to comply with the statutory intent—to prevent conflict of interest in the performance of certification and plan of treatment functions—and were unnecessarily restrictive; and
- The plan of treatment and certification provisions required clarification and correction.

The purpose of the changes is to ensure (1) that the limitations will not create problems in areas where only one HHA is available to furnish services, (2) that physicians are not penalized for uncompensated services to HHAs, and (3) that there is clear understanding of the certification and plan of treatment requirements for HHA services and for outpatient physicial therapy and speech pathology services.

DATES: 1. These amendments are effective on July 30, 1986.

2. Comments on classification as a sole community HHA, § 409.1633(e), are due by August 29, 1986.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–197–F, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC, or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland. In commenting, please refer to BERC–197–F.

Comments will be available for public inspection as they are received, beginning approximately three weeks after today in Room 309–G of the Department's offices at 200 Independence Avenue SW., Washington, DC 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT:

Stefan Miller, (301) 597–6394 (Speech pathology services)

Mayer D. Zimmerman, (301) 594–3314 (Fire safety)

Thomas E. Hoyer, (301) 594–9446 ("Significant interest" and "significant relationship").

SUPPLEMENTARY INFORMATION:

Background

Interim final regulations published on October 26, 1982 (47 FR 47388) modified the rules pertaining to compliance with a Life Safety Code, participation of proprietary HHAs in Medicare, and the establishment and review of plans of treatment for home health services and outpatient speech pathology services, as required by several provisions of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499). The intent of the changes was (1) to eliminate outdated Life Safety Code requirements imposed on skilled nursing facilities (SNFs); (2) to make it easier for providers of outpatient speech pathology services to meet the plan of treatment requirement; (3) to expand the sources of home health services and foster competition; and (4) to make it easier for HHAs to meet the certification and plan of treatment requirements, while guarding against conflict of interest in the performance of those functions.

Most of the amendments required by the Omnibus Reconciliation Act of 1980, as discussed above, were self-executing. We therefore made the regulations effective on the statutory effective dates. However, one provision could not be

implemented without regulations to define the terms used in the law. Section 930(e) of Pub. L. 96–499 amended sections 1814(a) and 1835(a) of the Act to prohibit certification of need for home health services and establishment and review of a plan of treatment for those services by a physician who has a "significant interest" in, or a "significant financial or contractual relationship" with, the HHA. The definitions of those terms were included in a new paragraph (d) added to § 405.1633, and made effective on November 26, 1982, 30 days after the regulations were published.

When notice of proposed rulemaking is waived (as it was for the October 26, 1982 regulations), we usually invite public comment and expect to make changes if those comments indicate that changes are needed. In this case, changes to the interim final rules reflect recent amendments to the Medicare statute, as well as our response to public comments.

Section 2336 of the Deficit Reduction Act (DRA) of 1984 (Pub. L. 98–369) amends sections 1814(a) and 1835(a) of the Social Security Act to provide that:

- Services by a physician as an uncompensated officer or director of an HHA shall not constitute a significant ownership interest in, or a significant financial or contractual relationship with, the HHA; and
- The prohibition shall not apply to an HHA that is a sole community HHA, as determined by the Secretary.

We have made the exemption for uncompensated officers and directors applicable to certification and plan of treatment functions performed on or after November 26, 1982, the effective date of the current regulations, which were published October 26, 1982. Although the statute requires this change as of July 28, 1984, we have the authority to apply it earlier, in the public interest, and we have done so.

The second exemption will apply as soon as the HHA is classified by HCFA as a sole community HHA. We have defined sole community HHA as an HHA that serves an area that is not served by any other HHA, and for which there are no physicians (other than those with a significant ownership interest or financial or contractual relationship) available to perform certification and plan of treatment functions. We request comments on the exception for sole community HHAs.

We will also review the information submitted by HHAs that request classification as sole community HHAs. If the comments and review of requests indicate the need to modify the definition, we will take appropriate action.

This definition of sole community HHA is intended for these rules only, not for other rules (such as reimbursement rules) that apply to HHAs. In order to qualify for exemption, an HHA must—

- Submit to HCFA a request showing that it meets the definition discussed above; and
- Be classified by HCFA, on the basis of that showing, as a sole community HHA.

We would note that the law and this regulation provide this exception only to the prohibition against certifying and recertifying to the need for care as required under sections 1814(a) and 1835(a) of the law. Physicians who have a "significant financial or contractual relationship" with an HHA, even if it is a sole community provider, continue to be subject, as appropriate, to the disclosure of information requirements at 42 CFR Part 420, Subpart C.

The fourth change listed under the SUMMARY portion of this preamble is a clarification which we realized was needed when we were asked whether salaried employment is subject to the $25,000 or 5 percent limitation. Because others may have been confused, we will apply this change beginning 60 days after publication, to allow HHAs to ensure that salaried physicians who certify for the HHAs meet the salary limitations of § 405.1633(d)(3).

The changes listed under item 5 of the SUMMARY reflect two amendments made by section 952 of the Omnibus Reconciliation Act of 1980. Those amendments provide that a doctor of podiatric medicine (as well as a doctor of medicine or osteopathy) (1) may establish a plan of treatment for home health services and (2) may be considered a physician for fulfilling the requirement that home health services be furnished while the beneficiary is "under the care of a physician", if such actions are in accordance with the HHA's policy and within the authorized scope of practice of the doctor of podiatric medicine. These provisions are incorporated in §§ 405.1633 (a) (iii) and (iv) and 409.42(b).

The sixth of the listed changes corrects an unintentional omission of signature and timing requirements for certification of need for home health services. The unintentional omission occurred when § 405.1633 was revised to reflect the statutory amendment that eliminated the "presumed coverage" provision of the Medicare law. Before the revision, § 405.1633(a)(2) contained, immediately following the discussion of presumed coverage cases, this statement:

> In all other cases [i.e., all cases other than "presumed coverage" cases], the physician's certification should be obtained at the time the plan is established or as soon thereafter as possible.

When the content pertaining to presumed coverage was removed, that final statement was unintentionally removed also. It is now being restored.

The seventh change listed under SUMMARY is discused under the topic "Speech pathology services" of Public comments.

Public Comments

We received 74 letters of comment on the interim final rules. The largest number of comments concerned the new definitions. The fire safety rules applicable to small intermediate care facilities for the mentally retarded (ICFs-MR) also elicited a number of comments. Two comments pertained to plan of treatment requirements for speech pathology services.

Speech pathology services. (Section 1835(a)(2)(D) of the Act, which provides that, effective January 1, 1981, a plan of treatment may be established by the speech pathologist.)

Comment: One State agency indicated that the law and the regulation did not make clear whether the plan of care could be established by any speech pathologist or only by the pathologist who would furnish the services to the particular individual.

Response: We believe the intent of the statute is that the plan of care be established by the speech pathologist who will furnish the services to the particular individual. We have revised § 405.1717(b) to clarify this limitation on the speech pathologist.

Comment: A speech pathologist objected to the longstanding requirement for monthly recertification of need for speech pathology services. He pointed out that each plan is reviewed at least once a month and that the problem is obtaining the recertification *form*. He recommended that we provide an open-ended period or at most require quarterly recertification.

Response: Section 1835(a)(2) of the statute requires that a physician recertify "with such frequency and accompanied by such supporting material . . . as may be provided by regulations" that outpatient speech pathology services were needed and the plan is periodically reviewed by a physician. As the commenter indicates, the regulations (§ 405.1717(b)) require that a physician review the plan of care at least every 30 days. Accordingly, the 30-day interval for recertification does

not appear to impose an additional burden. We note that the regulations do not require any particular form or format for the recertification. Thus for instance, a physician could, with a single statement, or medical record entry, indicate that the need for the service continues and whether the plan of treatment is to be modified or will continue unchanged. For these reasons, we have not adopted the suggested change.

Fire Safety

Since publication of this regulation to eliminate outdated Life Safety Code (LSC) requirements for Medicare and Medicaid providers, we find that these final rules may also be outdated. Thus, while we are responding here in a general nature to those public comments we received on the October 1982 regulation, we are notifying the reader that on April 18, 1986 (51 FR 13224) we published new regulations on fire safety for intermediate care facilities for the mentally retarded (ICFs/MR) and are considering further changes in fire safety requirements for types of Medicare and Medicaid providers.

Use of Life Safety Code and Fire Safety Evaluation System (FSES) in General.

(Section 1861(j)(13) of the Act, which authorized the Secretary to specify in regulations which edition of the Life Safety Code of the National Fire Protection Association (NFPA) must be met by SNFs.)

Comment: Seventeen letters commented on the Life Safety Code rules and three of these strongly supported the changes. One of the three suggested that we adopt the 1981 LSC exclusively.

Response: Currently, fire safety regulations for Medicare and Medicaid providers, except for ICFs/MR, refer to the 1981 edition of the LSC. The NFPA recently adopted the 1985 editon of the LSC and the Secretary has adopted that edition of the LSC for ICFs/MR.

Current regulations accept compliance with previous editions of the LSC so long as the facility continues to remain in compliance with previous editions. The Secretary will consider this comment in connection with deliberations on the adoption of the 1985 code.

Fire Safety Evaluation System for Board and Care Homes

Comment: The National Association of Private Residential Facilities for the Mentally Retarded recommended that we adopt the Fire Safety Evaluation System for Board and Care Homes (FSES/BC) which was under development at the time the regulations were published.

Response: The Secretary adopted the 1985 edition of the LSC for ICFs/MR, which incorporates by reference the FSES/BC (Chapter 21).

Comment: Another commenter suggested that the FSES ought not to apply to new construction, which should meet all requirements specified in the Code.

Response: The LSC provides that the FSES may be used for new facilities as well as for old facilities. This is because new facilities should also be afforded the opportunity for flexibility in meeting structural requirements for fire safety.

Comment: Another commenter expressed the opinion that (1) using the FSES for blind, nonambulatory, or physically handicapped patients above the street level floor is unacceptable, and (2) that the Life Safety Code and and our regulations do not offer adequate protection to the patients.

Response: We believe that successful completion of the FSES (a fire safety equivalency measure), and the LSC and our regulations are satisfactory because the standards and the FSES are specifically designed by professionals in the field to provide adequate protection.

Definition of "Ambulatory"

Comment: Section 442.508(a)(1) allows IFCs/MR that have fewer than 16 beds to use the lodging and rooming home section of the LSC if a psychologist certifies that each client is ambulatory and capable of self preservation. Commenters suggested that the first condition be revised to read "ambulatory or mobile nonambulatory" so as to include, for instance, persons in wheel chairs or on crutches.

Response: We believe the commenters concern would be addressed by the adoption of the 1985 LSC as we have proposed.

The twelve remaining letters commented on these provisions.

Comments: 1. The commenters considered that these rules were unnecessarily restrictive, perhaps even discriminatory. They suggested that the first conditon be revised to read "ambulatory or mobile nonambulatory" so as to include, for instance, persons in wheel chairs or on crutches, or that the third condition be made the only requirement. One commenter expressed the view that receipt of active treatment (which is required elsewhere in the regulations) has nothing to do with safety.

2. The National Association of Private Residential Facilities for the Mentally Retarded recommended that we adopt the Fire Safety Evaluation System for Board and Care Homes (FSES/BC) which was under development at the time the regulations were published.

Response: 1. Since we are considering revisions of the ICF/MR rules, we have made no changes in § 442.508 at this time.

2. The FSES/BC was published by the National Bureau of Standards in March 1983. It was later revised and is being considered by the NFPA for incorporation in the 1985 Life Safety Code. When the 1985 code is published. HCFA staff will review the final version and determine whether to adopt it for Medicare and Medicaid facilities.

Significant Interest in, or Relationship With, an HHA

(Sections 1814(a) and 1835(a) of the Act, the provisions of which were explained above under Background).

Fifty-five (55) letters were concerned with § 405.1633(d) of the regulation which specifies the circumstances under which certain physicians are prohibited from performing certification of need and plan of treatment functions for HHAs. The overwhelming majority of those letters came from the entities directly affected by the rules, that is, individual HHAs (22) and associations of HHAs (9) and Visiting Nurse Agencies (VNAs) and members of VNA boards (17). Four came from private physicians and the rest were scattered. Those comments and our responses, including certain changes in the regulations, are discussed below.

1. *Directors of Voluntary Nonprofit Agencies*

Comment: The fact that the rule applied to members of the Boards of Directors of voluntary nonprofit HHAs elicited the greatest number of objections (22). Commenters pointed out that the members of the Board are selected from the community and receive no pay, and that it is desirable to have physicians on the Board so that they realize the value of home health care for their patients.

Response: In response to these comments and the statutory amendments discussed above, we have removed § 405.1633(d)(2)(iii) and added § 405.1633(d)(3)(i) and (d)(4) to provide that a physician who serves as an officer or director is considered to have a significant financial or contractual relationship with the HHA only if he or she is compensated for those services.

There were no comments or amendments applicable to partners. However, on further consideration, we recognized that a partner ought not to be

disqualified unless his or her interest exceeds the 5 percent specified in § 405.1633(d)(2). Accordingly, we concluded that reference to partner (in the removed § 405.1633(d)(2)(iii)) was unnecessary.

2. Impact on Rural Areas

Comment: Thirteen (13) of the commenters expressed concern about the rules' impact on rural areas where both the number of physicians and the number of HHAs may be so limited that application of the rule could seriously limit access to home health services.

Response: We recognized the possibility of adverse impact on rural areas, but found that the statutory language allowed no leeway for exceptions. However, one of the DRA provisions discussed above provides exemption for sole community HHAs as determined by the Secretary. Our definition of "sole community HHA" was also discussed above under the topic "Changes to the Interim Final Rules".

3. Appropriateness of Criteria

Comment: Twelve (12) of the letters identified what they considered unintended and undesirable results of application of the rules and suggested other criteria that might be used to measure whether there is actual potential for conflict of interest. Examples of results the commenters believed were not intended by the law are:

- Physician precluded because he owns a building partly occupied by an HHA that pays rent equal to 5 percent of its total operating expenses.
- A physician, especially a medical director, who supervises the HHA services at a salary of $25,000 could not refer even one of his patients to that HHA. (The commenter suggested that medical directors be exempted from compliance with the provision.)

Other criteria that were suggested include the following:

- The number of patients referred, as a percentage of total referrals.
- Whether the degree of ownership or the nature of the relationship actually puts the physician in a position to reap an unintended reward.
- Whether the physician's remuneration from the HHA is affected by the volume of the HHA's business. (The writer's assumption was that the volume of business would have no effect if the physician were on a fixed salary, whatever the amount of that salary.)

Two of the commenters also considered that the criteria used to implement the disclosure of ownership and control information requirements (42 CFR 420.201) ought not to be used in § 405.1633 because the purpose and effect are quite different. (The definition of "significant ownership interest" in § 405.1633 is very similar to the one used in connection with the requirement to report the identity of all persons who have ownership interest in a provider or supplier of Medicare services, or a Medicare fiscal agent.) In the opinion of the commenters—

- The criteria for disclosure are appropriately broad because the information obtained (for possible future use in case of fraud or abuse investigations) does not affect the physician's or provider's activities or the access to services.
- However, because the conflict of interest rule does immediately and directly affect what the physician is allowed to do for the patient, and determines whether the patient may receive services from the HHA with which the physician is involved, the criteria should ensure that the interest is indeed "significant", that it is such as to enable the physician to reap an unintended reward.

Seven (7) related comments were to the effect that 5 percent was too low. (In both definitions, a direct or indirect ownership interest of 5 percent in the capital, stock, or profits of the HHA is "significant".)

Seven (7) commenters suggested that medical and fiscal reviews were the best methods for controlling the situation.

Response: We believe that Congress' intent is met by defining "significant relationship" so that the prohibition applies to a physician who has business dealings with the HHA that, in any fiscal year, amount to the lesser of 5 percent of the HHA's annual operating expense or $25,000.

We carefully considered the suggested alternative criteria and the possibility of using a different percentage. We concluded that they would be difficult if not impossible to monitor and enforce. For example:

- Claims submitted to Medicare fiscal intermediaries report number of visits, not number of referrals or patients.
- Fiscal intermediaries have information (obtained under the disclosure of ownership and control information requirements) on individuals who have an interest of 5 percent or more. They cannot determine the specific percentage for any of them.
- Case by case determinations (as would be required by the second listed criterion) are clearly impractical.

Medical and fiscal reviews may discover improper referrals "after the fact" and thus serve to trigger remedial action. They cannot help to *prevent* improper referrals.

4. Discrimination Against HHAs

Comments: Eleven (11) of the commenters labeled the statutory provision and the rules as discriminatory because they do not apply to hospitals, clinics, or any other providers or suppliers of Medicare services. Six (6) of the commenters objected to the exemption of governmental HHAs.

Response: Sections 1814(a) and 1835(a) of the Act do not authorize us to issue regulations that apply the limitation to governmental HHAs or to other providers or suppliers of Medicare services.

5. Exemption of Health Maintenance Organizations (HMOs).

Comment: It was recommended that HMOs be exempted because the method of reimbursement (on a capitation basis) constitutes a disincentive for prescription of unnecessary services.

Response: Although HMOs may arrange to have home health services furnished to their enrollees, they are not home health agencies and therefore are not subject to the limitations imposed by these regulations. The HHAs that furnish the services are subject to the limitations.

6. Meaning of "transaction"

Comment: The regulation does not specify whether the term "transaction", used in defining significant financial or contractual relationship, applies only to written contracts.

Response: The term "transaction" includes any valid contract, be it written or oral.

7. Classification of Rules.

Comment: Two commenters objected to the classification of the rules as "interim final with comment period". One expressed the opinion that "interim final" was a contradiction in terms, that a rule could be either interim or final, but not both. The other considered that the classification was simply a means of evading the publication of a notice proposed rulemaking, and predicted that no changes would be made, since the request for comments was merely *pro forma.*

Response: We waive notice of proposed rulemaking when it is urgent to implement statutory provisions (as in this case). An interim final regulation *is* a final rule, that is, it is fully in effect, and continues in effect as published unless and until it is changed.

We use a final rule with comment period when the law is so specific that

there is no leeway for difference of interpretation and public comments are very unlikely to lead to change in the regulation. When we use an "interim" (that is, temporary) final rule, it usually indicates that there is some leeway and therefore more likelihood of change. In both cases we carefully consider all comments.

In the present case, comments as well as the statutory amendments led to several changes.

8. Application to Specific Situations

Eleven of the letters raised questions about application of the rules to specific facilities or circumstances. Those were answered directly.

Waiver of Notice of Proposed Rulemaking

Section 405.1633(d) as revised merely (1) clarifies the meaning of "business transaction" and (2) reflects statutory amendments that are self-executing. We believe that there is good cause for finding that notice and public comment procedures are unnecessary.

Section 2336 of Pub. L. 98–369 requires us to determine what constitutes a sole community HHA and to revise the regulations to reflect the exception for sole community HHAs. Ordinarily we would provide notice and opportunity for public comment on this change. However, section 2336(C)(2) required that rules be published within 90 days, and we do not think it would be in the public interest to further delay the rule that makes an exception to current requirements. We will consider any comments, received within 60 days of publication, on the sole community HHA rules. Although we cannot acknowledge individual comments, if we revise the rule, we will discuss all comments in the preamble to that revision.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires agencies to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual impact of $100 million or more on the economy, cause a major increase in costs or prices, or meet other thresholds specified in section 1(b) of the Order.

Since the changes made by these regulations are expected to have little or no economic impact, a regulatory impact analysis is not necessary.

Regulatory Flexibility Act (Pub. L. 96–354 of 1980)

This Act requires agencies to prepare and publish a regulatory flexibility analysis (RFA) for any regulation that will have a significant economic impact on a substantial number of small entities, that is, small businesses, nonprofit enterprises, or government jurisdictions with populations of less than 50,000. The purpose of the analysis would be to anticipate the impact and to seek alternatives that would have a less negative effect.

An RFA is not required for these regulations because we have determined, and the Secretary certifies, that they will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Sections 405.1633 (f) and (g) and 405.1717(b) of this final rule contain information collection requirements. We have submitted these information collection requirements to the Office of Management and Budget for review under section 3507 of the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when OMB approval is obtained.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Reporting and recordkeeping requirements, Rural areas, X–rays.

42 CFR Part 409

Health facilities, Medicare.

Confirmation of Interim Final Rules

The interim final rules amending 42 CFR Parts 405 and 442, published on October 26, 1982 at 47 FR 47388 are confirmed as final with the changes set forth below. In addition, changes are being made to Part 409.

42 CFR Chapter IV is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Subpart P is amended as set forth below:

Subpart P—Certification and Recertification: Claims and Benefit Payment Requirements: Check Replacement Procedures

1. The authority citation for Subpart P is revised to read as follows:

Authority: Secs. 1102, 1814, 1835, and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f, 1395m, and 1395hh.

2. Section 405.1633 is amended to revise paragraphs (a) and (d), and to add new paragraphs (e), (f), and (g) to read as follows:

§ 405.1633 Home health services; Certification and recertification

(a) *Certification.—*

(1) *Content of certification.*

As a condition for payment of home health services under Medicare Part A or Medicare Part B, a physician must certify as follows:

(i) The individual needs or needed intermittent skilled nursing care, or physical or speech therapy, or (for the period from July through November 30, 1981) occupational therapy.

(ii) Home health services were required because the individual was confined to the home except when receiving outpatient services.

(iii) A plan for furnishing the services has been established and is periodically reviewed by a physician who is a doctor of medicine, osteopathy, or podiatric medicine, and who is not precluded from performing this function under paragraph (d) of this section. (Performance of plan of treatment functions by a doctor of podiatric medicine is subject to limitations specified in § 409.42(d) of this chapter.)

(iv) The services were furnished while the individual was under the care of a physician who is a doctor of medicine, osteopathy, or podiatric medicine.[1] (Care by a doctor of podiatric medicine fulfills this requirement only if the conditions of § 409.42(b)(2) of this chapter are met.)

(2) *Timing and signature.*

The certification of need for home health services must be obtained at the time the plan of treatment is established or as soon thereafter as possible and must be signed by the physician who establishes the plan.

* * * * *

(d) *Limitations on the performance of certification and plan of treatment functions.—* (1) *Basic rule.*

[1] As a condition of Medicare Part A payment for home health services furnished before July 1981, the physician was also required to certify that the services were needed for a condition for which the individual had received inpatient hospital or SNF services.

Beginning November 26, 1982, and except as provided in paragraph (e) of this section, need for home health services to be provided by an HHA may not be certified or recertified, and a plan of treatment may not be established and reviewed, by any physician who has a significant ownership interest in, or a significant financial or contractual relationship with, that HHA.

(2) *Significant ownership interest.*

A physician is considered to have a significant ownership interest in an HHA if he or she—

(i) Has a direct or indirect ownership interest of 5 percent or more in the capital, the stock, or the profits of the home health agency; or

(ii) Has an ownership interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation that is secured by the agency, if that interest equals 5 percent or more of the agency's assets.

(3) *Significant financial or contractual relationship.*

Beginning November 26, 1982, a physician is considered to have a significant financial or contractual relationship with an HHA if he or she—

(i) Receives any compensation as an officer or director of the HHA; or

(ii) Has direct or indirect business transactions with the HHA that, in any fiscal year, amount to more than $25,000 or 5 percent of the agency's total operating expenses, whichever is less. Business transactions means contracts, agreements, purchase orders, or leases to obtain services, supplies, equipment, and space and, after August 29, 1986, salaried employment.

(4) *Exemption of uncompensated officer or director.*

A physician who serves as an uncompensated officer or director of an HHA is not precluded from performing physician certification and plan of treatment functions for that HHA.

(e) *Exceptions to limitations.*—(1) *Exceptions for governmental entities.*

The limitations of paragraph (d) of this section do not apply to an HHA that is operated by a Federal, State, or local governmental authority.

(2) *Exception for sole community HHAs.*

The limitations of paragraph (d) of this section do not apply on or after the date on which the HHA is classified as a sole community HHA in accordance with paragraphs (f) and (g) of this section.

(f) *Procedures for classification as a sole community HHA.*

(1) The HHA must submit to its intermediary a request for classification, showing that it meets the conditions of paragraph (g) of this section.

(2) The intermediary reviews the request and sends the request, with its recommendations, to HCFA.

(3) HCFA reviews the request and the intermediary's recommendation and forwards its approval or disapproval to the intermediary.

(4) An approved classification as sole community HHA remains in effect without need for reapproval unless there is a change in the circumstances under which the classification was approved.

(g) *Basis for classification as a sole community HHA.*

HCFA approves a classification as sole community HHA only if the HHA designates a particular area and shows that—

(1) No other HHA provides services within that area; and

(2) There are no physicians (other than those with a significant ownership interest or financial or contractual relationship with the HHA) available to perform certification and plan of treatment functions.

Subpart Q is amended as set forth below:

Subpart Q—Conditions of Participation: Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and/or Speech Pathology Services; and Conditions for Coverage: Outpatient Physical Therapy Services furnished by Physical Therapists in Independent Practice

1. The authority citation for Subpart Q continues to read as follows:

Authority: Secs. 1102, 1861(p), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395x(p), and 1395hh.

2. Section 405.1717 is amended by revising paragraph (b) to read as follows:

§ 405.1717 Condition of participation—physician's direction and plan of care.

* * * * *

(b) *Standard: Plan of care.* For each patient, there is a written plan of care established by a physician, or, for speech pathology services by the speech pathologist who will furnish the services to the particular individual. The plan indicates anticipated goals and specifies the type, amount, frequency, and duration of physical therapy or speech pathology services. If appropriate, the plan is developed in consultation between the physical therapist(s) or speech pathologist(s) and the physician. The plan of care and results of treatment are reviewed once every 30 days, or more often, if required, by the physician and appropriate professional staff, and the indicated action is taken.

* * * * *

PART 409—MEDICARE BENEFITS, LIMITATIONS AND EXCLUSIONS

1. The authority citation for Part 409 is revised to read as follows:

Authority: Sec. 1102, 1812, 1813, 1814, 1861, 1866, 1871, 1881, and 1883 of the Social Security Act (42 U.S.C. 1302, 1395d, 1395e, 1395f, 1395x, 1395cc, 1395hh, 1395rr, and 1395tt), and Sec. 602(k) of Pub. L. 98-21 (42 U.S.C. 1395y (note)), unless otherwise noted.

2. In § 409.42, paragraph (b) is revised to read as follows:

§ 409.42 Requirements and conditions for home health services.

* * * * *

(b) *Conditions the beneficiary must meet.*

The beneficiary must meet the following conditions:

(1) Be confined to the home or in an institution that is neither a hospital nor primarily engaged in providing skilled nursing or rehabilitation services.

(2) Be under the care of a physician who is a doctor of medicine, osteopathy, or podiatric medicine. Being under the care of a doctor of podiatric medicine fulfills this requirement only if that is consistent with the home health agency's policy, and with the functions the doctor of podiatric medicine is authorized to perform under state law.

(3) Be in need of intermittent skilled nursing care, or physicial or speech therapy or, for the period July 1 through November 30, 1981, occupational therapy. After November 30, 1981, need for occupational therapy is not a basis for initial qualification for home health services, but does qualify a beneficiary for continuation of those services even after he or she no longer needs intermittent skilled nursing care or physical or speech therapy.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: February 4, 1986.

Henry R. Desmarais,

Acting Administrator, Health Care Financing Administration.

Approved: May 7, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-14533 Filed 6-27-86; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2584]

43 CFR Part 1820

Application Procedures; Changes of Addresses of State Offices

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rulemaking amends 43 CFR Part 1820 to reflect the new addresses of 2 of the State Offices of the Bureau of Land Management. All filings and other documents relating to public lands in the respective States shall be filed at the new addresses of the State Offices having jurisdiction over the area involved.

EFFECTIVE DATE: June 24, 1986, for the Nevada State Office, and September 1, 1986, for the Colorado State Office.

FOR FURTHER INFORMATION CONTACT: Eleanor R. Schwartz, (202)–343–8735.

SUPPLEMENTARY INFORMATION: This final rulemaking reflects the administrative action of relocating 2 of the State Offices of the Bureau of Land Management.

It changes the addresses for the filing of documents relating to public lands in several States, but makes no other changes in filing requirements. Therefore, this amendment is published as a final rulemaking with the effective date shown above.

The Department of the Interior has determined that because this rule is an administrative action, it is not a major rule for purposes of E.O. 12291, and neither an environmental impact analysis nor a regulatory flexibility analysis is required. There are no additional information collection requirements imposed by this final rulemaking.

List of Subjects in 43 CFR Part 1820

Administrative practice and procedures, Alaska, Archives and records, Public lands.

Under the authority of section 2478 of the Revised Statutes (43 U.S.C. 1201), Subpart 1821, Part 1820, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 1820—[AMENDED]

1. The authority citation for Part 1820 continues to read as follows:

Authority: R.S. 2478; 43 U.S.C. 1201, unless otherwise noted

2. Section 1821.2–1(d) is amended by revising the entries for the Colorado and Nevada State Offices to read as follows:

§ 1821.2–1 [Amended]

* * * * *

(d) * * *

State Office and Area of Jurisdiction

* * * * *

Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215—Colorado and Kansas

* * * * *

Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520—Nevada

* * * * *

Dated: June 24, 1986.

J. Steven Griles,

Assistant Secretary of the Interior.

[FR Doc. 86–14650 Filed 6–27–86; 8:45 am]

BILLING CODE 3410–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Flood Insurance Administration

44 CFR Part 64

[Docket No. FEMA 6718]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION:

The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, as of that date, flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable floodplain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Deputy Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notfication addressed to the Chief Executive Officer

that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Deputy Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

The authority citation for Part 64 continues to read as follows:

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

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date [1]
		REGION VIII—MINIMAL CONVERSIONS			
Colorado	Prowers County, unincorporated areas.	080272	June 30, 1975, Emerg., July 1, 1986, Reg., July 1, 1986, Susp.	July 12, 1977	July 1, 1986.
Utah	Glenwood, town of, Seiver County	490126	July 1, 1977, Emerg., July 1, 1986, Reg., July 1, 1986, Susp.	Oct. 22, 1976	Do.
Do	Kane County, unincorporated areas.	490083	July 1, 1975, Emerg., July 1, 1986, Reg., July 1, 1986, Susp.	Jan 10, 1978	Do.
		REGION I			
Vermont	St. George, town of, Chittenden County.	500320A	Oct. 22, 1975, Emerg., Sept. 27, 1985, Reg., July 3, 1986, Susp.	Apr. 11, 1975 and Sept. 27, 1985	July 3, 1986.
Do	Woodbury, town of, Washington County.	500314A	June 21, 1976, Emerg., Nov. 1, 1985, Reg., July 3, 1986, Susp.	Jan. 17, 1975 and Nov. 1, 1985	Do.
		REGION IV			
Alabama	Beaverton, town of, Lamar County	010134B	Aug. 22, 1974, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Sept. 20, 1974, Oct. 24, 1975 and July 3, 1986.	Do.
		REGION IV—MINIMAL CONVERSIONS			
Kentucky	Falmouth, city of, Pendleton County.	210189B	Nov. 5, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	May 24, 1974, Oct. 15, 1976 and July 3, 1986.	July 3, 1986.
Do	Florence, city of, Boone County	210238B	Apr. 5, 1977, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Feb. 1, 1974, Feb. 20, 1976 and July 3, 1986.	Do.
Do	Liberty, city of, Casey County	210054B	May 12, 1977, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	May 24, 1974, Feb. 27, 1976 and July 3, 1986.	Do.
Do	Lincoln County, unincorporated areas.	210325B	Dec. 27, 1978, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Aug. 26, 1977 and July 3, 1986	Do.
North Carolina	Richlands, town of, Onslow County.	370341A	Mar. 17, 1980, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	July 11, 1975 and July 3, 1986	Do.
Do	Robbins, town of, Moore County	370166B	Apr. 16, 1976, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Nov. 22, 1974, Feb. 1, 1980 and July 3, 1986.	Do.
Do	Ronda, town of, Wilkes County	370258B	Feb. 23, 1978, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Sept. 6, 1974, May 14, 1976 and July 3, 1986.	Do.
Do	Valdese, town of, Burke County	370298A	Feb. 18, 1976, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	July 25, 1975 and July 3, 1986	Do.
South Carolina	Gifford, town of, Hampton County	450099A	March 11, 1976, emerg., July 3, 1986, Reg., July 3, 1986, Susp.	March 26, 1976 and July 3, 1986	Do.
Do	Latta, town of, Dillon County	450067B	Oct. 29, 1974, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	June 14, 1974, March 5, 1976 and July 3, 1986.	Do.
Do	Saluda, town of, Saluda County	450175	June 25, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	June 28, 1974, Apr. 9, 1976, June 3, 1977, June 27, 1980 and July 3, 1986.	Do.
Tennessee	Calhoun, city of, McMinn County	470232B	July 31, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	March 8, 1974, Sept. 3, 1976 and July 3, 1986.	Do.
		REGION V			
Indiana	Steuben County, unincorporated areas.	180243B	Aug. 26, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Dec. 27, 1974, Sept. 2, 1977 and July 3, 1986.	Do.
Michigan	Arenac, township of, Arenac County.	260251B	Aug. 16, 1974, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Aug. 16, 1974, June 25, 1976 and July 3, 1986.	Do.
Do	Brooks, township of, Newaygo County.	260467A	Sept. 23, 1976, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	July 18, 1975 and July 3, 1986	Do.
Do	Shiawassee, township of, Shiawassee County.	260523A	Sept. 10, 1981, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Oct. 10, 1975 and July 3, 1986	Do.
Minnesota	Pipestone County, unincorporated areas.	270627B	Apr. 15, 1974, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	July 27, 1979 and July 3, 1986	Do.
Do	Wadena County, unincorporated areas.	270637B	May 7, 1974, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Aug. 19, 1977 and July 3, 1986	Do.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date [1]
		REGION VII			
Kansas	Caney, city of, Montgomery County.	200230B	Aug. 4, 1976, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Feb. 15, 1974, Oct. 24, 1975 and July 3, 1986.	Do.
		REGION I			
Massachusetts	Marshfield, town of, Plymouth County.	250273C	Jan. 14, 1972, Emerg., Oct. 14, 1977, Reg., July 3, 1986, Susp.	Aug. 30, 1974, Oct. 14, 1977, Oct. 1, 1983 and July 3, 1986.	July 3, 1986.
Do	Stoneham, town of, Middlesex County.	250215B	Oct. 3, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Aug. 2, 1974, Dec. 13, 1977, July 3, 1986.	Do.
Do	Eastham, town of, Barnstable County.	250006C	March 1, 1974, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	March 22, 1974, Aug. 13, 1976, Oct. 1, 1983 and July 3, 1986.	Do.
Do	Dennis, town of, Barnstable County.	250005C	Dec. 10, 1971, Emerg., Oct. 6, 1976, Reg., July 3, 1986, Susp.	July 26, 1974, Oct. 6, 1976, Oct. 1, 1983 and July 3, 1986.	Do.
Vermont	St. Johnsbury, town of, Caledonia County.	500031B	Apr. 30, 1974, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Aug. 2, 1974, Jan. 14, 1977 and July 3, 1986.	Do.
		REGION II			
New Jersey	Pequannock, township of, Morris County.	345311B	July 17, 1970, Emerg., May 21, 1971, Reg., July 3, 1986, Susp.	May 21, 1971, July 1, 1974, Sept. 3, 1976 and July 3, 1986.	Do.
New York	Hamptonburgh, town of, Orange County.	360617B	June 10, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Apr. 5, 1974, July 9, 1976 and July 3, 1986.	Do.
Do	Attica, village of, Wyoming and Genesee Counties.	360985D	Aug. 21, 1974, Emerg., Oct. 7, 1983, Reg., July 3, 1986, Susp.	May 24, 1974, June 11, 1976, May 14, 1982, Oct. 7, 1983 and July 3, 1986.	Do.
Do	Bolton, town of, Warren County	360869C	July 23, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Oct. 18, 1974, July 2, 1976, Feb. 4, 1977 and July 3, 1986.	Do.
Do	Whitehall, town of, Washington County.	361239A	Jan. 21, 1977, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Dec. 23, 1977 and July 3, 1986	Do.
Do	Greenwich, town of, Washington County.	361233B	Feb. 14, 1977, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Sept. 24, 1976 and July 3, 1986	Do.
Do	Easton, town of, Washington County.	361224B	June 17, 1976, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Dec. 20, 1974, July 23, 1976 and July 3, 1986.	Do.
Do	Patterson, town of, Putnam County.	361023	March 21, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Apr. 12, 1974, Apr. 23, 1976 and July 3, 1986.	Do.
Do	Dresden, town of, Washington County.	361410A	Jan. 25, 1977, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Feb. 14, 1975 and July 3, 1986	Do.
Do	North Salem, town of, Westchester County.	361240A	Feb. 18, 1976, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Jan. 31, 1975 and July 3, 1986	Do.
		REGION III			
Pennsylvania	Brady's Bend, township of, Armstrong County.	421302	Apr. 22, 1976, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Nov. 29, 1974, and Dec. 28, 1979	Do.
Do	Kittanning, borough of, Armstrong County.	420096B	June 18, 1984, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	May 31, 1974, May 21, 1976 and July 3, 1986.	Do.
Do	South Greensburg, borough of, Westmoreland County.	420900	Feb. 10, 1976, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	June 14, 1974, Sept. 10, 1976 and July 3, 1986.	Do.
		REGION IV			
Kentucky	Winchester, city of, Clark County	210056B	Feb. 27, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	May 31, 1974, Sept. 3, 1976 and July 3, 1986.	Do
		REGION V			
Ohio	Bucyrus, city of, Crawford County	390090C	March 21, 1975, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Nov. 16, 1973, May 21, 1976 and July 3, 1986.	Do.
		REGION VII			
Kansas	Ford County, unincorporated areas.	200101B	March 26, 1981, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Dec. 6, 1977 and July 3, 1986	Do.
Do	Hays, city of, Ellis County	200096B	Jan. 17, 1974, Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Jan. 23, 1974, Nov. 28, 1975 and July 3, 1986.	Do.
Do	Ellis County, unincorporated areas	200094B	Feb. 5, 1979 Emerg., July 3, 1986, Reg., July 3, 1986, Susp.	Oct. 18, 1977 and July 3, 1986	Do.
Do	Pawnee Rock, city of, Barton County.	200021B	May 10, 1975, Emerg., Jan. 14, 1977, Reg., July 3, 1986, Susp.	Jan. 10, 1975, Jan. 14, 1977 and July 3, 1986.	Do.
		REGION IX			
California	Del Norte County, unincorporated areas.	065025	Sept. 4, 1970, Emerg., Jan. 14, 1983, Reg., July 3, 1986, Susp.	Dec. 27, 1974, Apr. 4, 1978, Jan. 24, 1983 and July 3, 1986.	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.

Code for reading 5th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86-14631 Filed 6-27-86; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 86-291]

Managing Director Authority Now Delegated to the Chairman Concerning Settlement of Claims Within the Purview of the Military Personnel and Civilian Employees' Claims Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action (Order) transfers to the Managing Director authority now delegated to the Chairman concerning settlement of claims within the purview of the Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 3701 and 3721, formerly 31 U.S.C. 240–243. This action is taken to promote the conservation of administrative resources and efficiency.

EFFECTIVE DATE: July 21, 1986.

FOR FURTHER INFORMATION CONTACT: James B. Mullins, Office of General Counsel, (202) 254–6530.

SUPPLEMENTARY INFORMATION:

Order

In the matter of amendment of §§ 0.211(d) and 0.231(f) of the Commission's Rules to transfer to the Managing Director authority now delegated to the Chairman concerning settlement of claims within the purview of the Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 3701 and 3721, formerly 31 U.S.C. 240–243.

Adopted: June 10, 1986.
Released: June 12, 1986.
By the Commission.

For the purpose of promoting the conservation of administrative resources and efficiency, we are transferring to the Managing Director authority now delegated to the Chairman to act upon the disposition of certain claims arising under the Military and Civilian Employees' Claims Act, 31 U.S.C. 3701, 3721, formerly 31 U.S.C. 240–243. The Act provides for the disposition of claims brought by an officer or employee of the Federal Government "for damage to, or loss of, personal property incident to service." Under this transfer of delegated authority, the Managing Director, with the concurrence of the General Counsel, may act on claims not to exceed $6,500 filed pursuant to the Military Personnel and Civilian Employees' Claims Act.

Accordingly, 0.211(d) of the Commission's Rules, which relates to authority delegated to the Chairman is amended to delete all reference to the settlement of claims within the purview of the Military Personnel and Civilian Employees' Claims Act. Section 0.231(f), concerning authority delegated to the Managing Director, is amended to empower the Managing Director to act upon the disposition of personal property claims in the manner and to the extent described above. Finally, we are adopting editorial amendments to 0.211(d) to reflect this action.

We find that prior notice and comment procedures are unnecessary to implement the rule amendments proposed in the attached Appendix because these amendments involve general rules of agency organization, practice or procedure. *See* 5 U.S.C. § 553(b)(3)(A).

List of Subjects in 47 CFR Part 0

Authority delegation (Government agencies).

In view of the foregoing and pursuant to Sections 4 (i) and (j) of the Communications Act of 1934, as amended, It Is Hereby Ordered that Part 0 of the Commission's Rules is amended as set forth below, effective July 21, 1986.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

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

2. Section 0.211(d) is revised to read as follows:

§ 0.211 Chairman.

* * * * *

(d) To act within the purview of the Federal Tort Claims Act, as amended, 28 U.S.C. 2672, upon tort claims directed against the Commission where the amount of damages does not exceed $5,000.

* * * * *

3. Section 0.231(f) is revised to read as follows:

§ 0.231 Authority delegated.

* * * * *

(f) The Managing Director, or his designee, upon securing the concurrence of the General Counsel, is delegated authority, within the purview of the Federal Tort Claims Act, as amended, 28 U.S.C. 2672, to grant tort claims directed against the Commission where the amount of the claim does not exceed $5,000. In addition thereto, the Managing Director, or his designee, upon securing the concurrence of the General Counsel, is delegated authority to act in the disposition of claims arising under the Military Personnel and Civilian Employees' Claims Act, as amended, 31 U.S.C. 3701 and 3721, where the amount of the claim does not exceed $6,500.

* * * * *

[FR Doc. 86-14568 Filed 6-27-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 10

Law Enforcement; Addresses of District Offices

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service amends 50 CFR 10.22 to update the list of addresses and telephone numbers of its law enforcement district offices. This rule changes the telephone number for the Denver, CO, and Atlanta, GA, district offices and the address for the Anchorage, AK, district office; it also adds a telephone number for the Boston, MA, district office.

EFFECTIVE DATE: This rule is effective on June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas L. Striegler, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, DC 20005 (202) 343-9242.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that Executive Order 12291 and the Regulatory Flexibility Act do not apply to this action, since only addresses and telephone numbers of the Service's law enforcement offices are being updated.

Also, since this amendment's effect is purely administrative in nature and does not change agency procedure, the "notice" requirement of 5 U.S.C. 553(b) are not applicable. In addition, it is not a substantive rule requiring a delayed effective date under 5 U.S.C. 553(d).

This amendment was prepared by Margaret Culbreath Cash, Regulations Coordinator, Division of Law Enforcement.

List of Subjects in 50 CFR Part 10

Exports, Fish, Imports, Law enforcement officers, Wildlife.

PART 10—[AMENDED]

Accordingly, §10.22 of Subchapter B, Chapter I of Title 50, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 10 continues to read as follows:

Authority: Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281; Black Bass Act, sec. 5, 44 Stat. 576, as amended, 46 Stat. 846; Migratory Bird Treaty Act, sec. 3, 40 Stat. 755, Bald Eagle Protection Act, sec. 2, 54 Stat. 251; Tariff Classification Act of 1962, sec. 102, 76 Stat. 73–74, 19 U.S.C. 1202, Schedule 1, Part 15D, Headnote, 2(d), "Tariff Schedules of the United States"; Endangered Species Act of 1973, sec. 11(f), 87 Stat 884; Fish and Wildlife Act of 1956, sec. 13(d), 86 Stat. 905 amending 85 Stat. 480; Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042, Pub. L. 97–79, 95 Stat. 1072; 16 U.S.C. 3371–3378, unless otherwise noted.

2. The telephone number for the Atlanta, GA, district office is change to read "404–331–5872."

3. The telephone number "617–965–2298" is added to the entry for the Boston, MA, district office.

4. The telephone number for the Denver, CO, district office is changed to read "303–236–7540."

5. The address for the Anchorage, AK, district is changed to read "P.O. Box 92597, Anchorage, AK 99509–2597, Telephone: 907–786–3311."

Dated: June 16, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–14680 Filed 6–27–86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

Atlantic Sea Scallop Fishery; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; correction.

SUMMARY: NOAA issued an emergency interim rule delaying implementation of Amendment 1 to the Fishery Management Plan for Atlantic Sea Scallops (FMP) and reestablished the 35-meats-per-pound standard, to be effective April 2, 1986. Through an oversight, the effective date was published as April 4, 1986. This notice is intended to avert any public confusion that might have occurred.

FOR FURTHER INFORMATION CONTACT: William B. Jackson, Fishery Management Specialist, NMFS, 202–673–5315.

SUPPLEMENTARY INFORMATION: NOAA issued an emergency interim rule (April 8, 1986, 51 FR 11927) delaying implementation of Amendment 1 to the FMP with an erroneous effective date of April 4, 1986. Administrative procedures delayed filing with the Office of the Federal Register until April 4, 1986, and an editorial oversight failed to make the effective date read April 2, 1986. NOAA wishes to alleviate any public confusion which might have occurred due to this oversight.

In the **Federal Register** of April 8, 1986, FR Doc. 86–7919, on page 11927, second column, the effective date is changed from "April 4, 1986" to "April 2, 1986".

Dated: June 23, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–14554 Filed 6–27–86; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 653

[Docket No. 60617–6117]

Drum Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule.

SUMMARY: NOAA issues an emergency interim rule for the management and conservation of the drum fishery of the Gulf of Mexico. The rule (1) limits the total directed net harvest of red drum from the fishery conservation zone to one million pounds, (2) establishes permit requirements and onboard observer needs for vessels conducting directed net fishing for red drum, (3) specifies reporting requirements for owners or operators of vessels engaged in directed net fisheries for red drum, for spotter aircraft pilots, and for net vessels with an incidental catch of red drum, and (4) provides for closure of the red drum directed net fishery when the TDNH level has been reached. The intended effects of this rule are to (1) recognize the concerns and efforts to the coastal states to manage and conserve red drum and to support these efforts to the extent permitted by applicable federal law, (2) prevent excessive taking of the resource until the Secretary of Commerce implements a fishery managment plan for the drum fishery, and (3) obtain the greatest amount of scientific information possible during the emergency period for use in preparation of a Secretarial plan.

EFFECTIVE DATES: For a period of 90 days beginning 0001 hours, local time, June 25, 1986, through 2400 hours, local time, September 23, 1986, except for §§ 653.4 and 653.5. This rule is being issued prior to approval by the Office of Management and Budget (OMB) of the information requirements in §§ 653.4 and 653.5. When OMB approval is received, a notice will be published in the **Federal Register** making this section effective.

ADDRESS: Copies of documents supporting this action may be obtained from and comments on this rule may be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–893–3722.

SUPPLEMENTARY INFORMATION: Under section 305(e)(1) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary of Commerce (Secretary), upon finding that an emergency exists involving any fishery, may promulgate emergency regulations deemed necessary to address that emergency. Those regulations may remain in effect for no more than 90 days unless extended in accordance with section 305(e)(1) of the Magnuson Act. The Secretary has determined that an emergency exists with regard to the red drum fishery of the Gulf of Mexico. Therefore, NOAA issues this emergency interim rule implementing regulations deemed necessary to respond to the emergency.

Background

Red drum (*Sciaenops ocellatus*), commonly referred to as red fish, is one of the most important fishery resources of the Gulf of Mexico. Traditionally it has been both sought after by recreational anglers and harvested for commercial distribution.

Red drum stocks occur both in inshore coastal areas such as bays, lagoons, bayous, etc., and offshore in deeper waters. Generally, the larger fish, which comprise the spawning stocks, are found in large schools in offshore waters. Conversely, the inshore coastal waters

serve as habitat for the juvenile red drum.

Historical landings data (1979–1985) demonstrate three significant phenomena which are occurring in the fishery. First, harvest has shifted from being primarily recreational to being predominately commercial. Second, the primary geographical location of commercial harvest moved from State waters to the fishery conservation zone (FCZ). Third, there has been a marked increase in the commercial harvest of red drum. The latter two phenomenon give rise to the Secretary's finding that an emergency exists regarding the red drum fishery.

TABLE 1.—RED DRUM LANDINGS FROM THE GULF OF MEXICO, 1979—1985

Year	Recreational		Commercial	
	Pounds	Percent from FCZ	Pounds	Percent from FCZ
1979	8,567,328	0.7	2,773,000	NA*
1980	8,330,577	3.2	1,615,000	3.3
1981	4,874,635	3.8	2,136,000	1.9
1982	12,065,950	1.2	2,425,000	3.5
1983	7,602,151	9.3	3,087,000	7.0
1984	6,559,618	5.3	4,335,000	22.6
1985	5,430,000	NA	6,334,000	54.5
1986				
(January-June 1)	NA	NA	6,000,000*	87.0

*Preliminary data, subject to change.
*Not Available.

During 1984 and 1985 there was a substantial increase in the commercial landings of red drum and a significant increase in the percentage of commercial harvest being taken from the FCZ. During this some period recreational harvest, 90 percent of which occurs in State waters, has declined.

The increased catch of red drum from the FCZ was triggered by the recent national popularity of the seafood dish "blackened redfish" and the coincident increase in the exvessel value of red drum. Demand for red drum has far exceeded the capacity of the inshore commercial fishery and stimulated the harvest of red drum from the FCZ. In 1983, only 216,000 pounds were commercially harvested from the FCZ; in 1985, that number had soared to 3,452,000 pounds. To date, 1986 landings data indicate no abatement of this and currently available information clearly demonstrates a continuing rise in commercial red drum harvest from the FCZ. At a hearing before the House of Representatives Subcommittee on Fisheries and Wildlife and the Environment in New Orleans, Louisiana on June 2, 1986, testimony was presented that two vessels alone had harvested 3.4 million pounds from the FCZ during the first five months of 1986 and "would have harvested 20 million pounds if markets had existed." Catches during the first 5 months of 1986 exceeded landings for all of 1985. Official landing records for January 1 through June 1, 1986, totaled 5.2 million pounds. These data are preliminary and actual total landings may be greater.

At present, only the inshore component of this fishery shows evidence of overfishing in some areas of the Gulf of Mexico. However, the significant increase in the harvest of large adult red drum in the FCZ, which is the brood stock for the resource, has raised concerns regarding the biological integrity of the fishery. Fishery scientists do not know the impact to date of this increased harvest on the offshore red drum stock but believe harm to the resource may occur if unrestricted harvest of the brood stock continues. This concern is particularly acute because of the depressed biological status of the inshore fishery in some State areas, and the fact that long-lived species of fish such as red drum are especially sensitive to unrestricted harvest.

Commercial fishing for red drum in the FCZ is conducted almost entirely with purse seines though other types of net gear may prove equally as effective. Purse seines, when deployed under the direction of spotter aircraft, have proven extremely efficient with catches of 50,000 pounds or more per set not uncommon and frequently range up to 150,000 pounds by some vessels.

Commercial net fishermen harvesting red drum in the Gulf of Mexico FCZ have a vested interest in this fishery. Because of limited information on the status of stocks; there exists a critical need for the fullest cooperation from the commercial sector to enable the acquisition of as much information as possible during the emergency period.

Regulatory Responses

To safeguard the red drum resources from over exploitation, the Secretary is issuing this emergency interim rule. This rule limits the total directed net harvest of red drum from the FCZ to one million pounds for the 90-day effective period. This action greatly reduces the potential catch that could occur during this period and thus precludes possible excessive and destructive harvest. For example, two purse seine vessels harvested an average of 700,000 pounds of red drum monthly from January through May 1986. At this rate these two vessels could easily harvest in excess of 2.1 million pounds during a 90 day period. If all purse seine vessels actively fished during this period, their total harvest could reach 10 million pounds with proper market conditions. When the one million pound limit is reached or projected to be reached, all directed net fishing for red drum in the Gulf of Mexico FCZ wil be prohibited.

This restriction results in a substantial limitation on red drum harvest. There is no credible scientific evidence to support the conclusion that more restrictive limitations in the FCZ are warranted at this time. The chosen total directed net harvest limit strikes a balance between the urgent need to conserve this valuable resource and the need to preserve the economic and social integrity of those interests, both recreational and commercial, that depend upon the resource. Information obtained during the pendency of this emergency rule will better enable preparation of a Secretarial plan to manage and conserve the resource and achieve optimum yield (OY) from the fishery.

Further, NMFS scientists conclude that the singular best means of acquiring the maximum amount of information during this emergency time period involves a comprehensive onboard observer program coupled with information obtained from spotter aircraft pilots. Therefore, commercial net fishermen fishing for red drum are requested to accommodate onboard observers in their vessel operations. NMFS is arranging for two sources of observers, i.e., scientific observers from the Agency, and NMFS trained observers, including representatives from State fishery agencies.

All vessels engaged in a directed net fishery for red drum in the Gulf of Mexico FCZ must obtain permits to fish and are requested to cooperate and accommodate NMFS or NMFS-approved observers aboard. The commercial sector is expected to financially participate in the acquisition of the information necessary for the preparation of an FMP by the Secretary. When scientific observers are unavailable from either State fishery agencies or NMFS, owners or operators of vessels engaged in a directed net fishery for red drum in the Gulf FCZ are expected to cooperate and accommodate NMFS-approved observers at their own expense. Such expenses borne by commercial fishermen are restricted to the timeframe in which observers are actually used in commercial operations. Training, briefing, and debriefing costs of approved observers will be at the expense of NMFS. Any financial remuneration of State agencies will be a matter between the State agency and the commercial vessel owner or operator.

Complementing these requirements, spotter pilots engaged by vessels in the directed red drum net fishery must submit specified flight information within 24 hours of landing to a designated representative of the NMFS Pascagoula Laboratory, Pascagoula, Mississippi. Further, owners or operators of vessels fishing nets in non-directed fisheries, except shrimp fishermen, must report information regarding their incidental catch of red drum to this same designated representative of the NMFS Pascagoula Laboratory at least six hours prior to landing their incidental catch.

The intent of the reporting requirements and onboard observer programs is (1) to provide current, ongoing data of red drum harvest to ensure a timely closure of the fishery when TDNH is reached or projected to be reached; (2) to obtain scientific information essential for the preparation of a Secretarial plan; and (3) to minimize costs to the general taxpayer for the acquisition of this information. Because commercial net fishermen have a vested interest in this fishery the Secretary concludes they may potentially be principal beneficiaries from the implementation of a Secretarial plan and are therefore expected to participate in the acquisition of essential information.

This emergency interim rule will provide for initial regulation of the fishery to prevent recruitment overfishing of the red drum brood stock while the Secretary prepares a fishery management plan. The Secretarial plan will remain in effect until a fishery management plan is prepared by the Gulf of Mexico Fishery Management Council and is implemented.

Relation to State Laws

The Secretary recognizes the conservation and management efforts of the coastal states in the Gulf of Mexico with regard to the red drum fishery. The Secretary desires to support those efforts through ths emergency action to the maximum extent permitted under the Magnuson Act. It is the intent of the Secretary to supplement the States' efforts to conserve red drum. Therefore, the emergency rule does not supersede any State landing laws which apply to red drum. For purposes of the emergency rule, a State landing law is a statute, regulation or ordinance which makes it unlawful to land or possess within the jurisdiction of a State any red drum.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and is consistent with the provisions of the Magnuson Act and other applicable law.

The Assistant Administrator also finds for good cause (i.e., to prevent recruitment overfishing of the red drum resource) that the reasons justifying promulgation of these rules on an emergency basis also makes it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provisions of section 553(b) and (d) of the Administrative Procedure Act.

The Assistant Administrator has determined that this rule is implemented in a manner that does not directly affect the approved coastal zone management programs of Alabama, Florida, Louisiana and Mississippi. Texas does not have an approved coastal zone management program. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of the Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that Order.

The Assistant Administrator prepared an environmental assessment (EA) for this action and concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Regional Director at the Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, Florida 33792.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). A request to collect this information has been submitted to the Office of Management and Budget for review under section 3504(h) of the PRA. Comments should be directed to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503. Attention: Desk Officer for NOAA.

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

List of Subjects in 50 CFR Part 653

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 25, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resources Management, National Marine Fisheries Service.

50 CFR is amended by adding a new Part 653 to read as follows:

PART 653—DRUM FISHERY OF THE GULF OF MEXICO

Subpart A—General Provisions

Sec.
653.1 Purpose and scope.
653.2 Definitions.
653.3 Relation to other laws.
653.4 Permits and fees.
653.5 Reporting requirements.
653.6 Vessel identification. [Reserved]
653.7 Prohibitions.
653.8 Facilitation of enforcement.
653.9 Penalties.

Subpart B—Management Measures

653.20 Seasons. [Reserved]
653.21 Quotas.
653.22 Closures.
653.23 Specifically authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 653.1 Purpose and scope.

The regulations in this part govern fishing for red drum by vessels of the United States within the Gulf of Mexico.

§ 653.2 Definitions.

In addition to the definition in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Authorized officer means—

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Special agent of NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition

Commercial fisherman is any person who trades, sells, or barters fish.

Dealer means the person who first receives by way of purchase, trade, or barter fish from a commercial fisherman.

Directed red drum net fishery means any net fishing activity which results in the landing of a catch having in excess of five percent by weight of red drum.

Fish means red drum (*Sciaenops ocellatus*), also commonly referred to as red fish, and the black drum (*Pogonia cromis*).

Fishery conservation zone (FCZ) means the area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft including aircraft which is used or equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

NMFS means the National Marine Fisheries Service.

NMFS approved observer means any person trained by NMFS to perform the duties of an observer under this part who is other than an NMFS employee and whose services as an observer are independently obtained by or on behalf of a vessel engaged in the directed red drum net fishery.

Net means any net, other than shrimp trawls, including but not limited to purse seines, gillnets, pair trawls and any other type of encircling or entanglement gear.

Non-directed fishery means any net fishing activity in which the amount of red drum landed with other species does not exceed five percent by weight of the total landings.

Official number means the official documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage; or

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function or operation of the vessel; and

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Processor means a person who processes fish or fish products for commercial use or consumption.

Regional Director means the Director, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida; telephone (813–893–3141), or a designee.

Secretary means the Secretary of Commerce or a designee.

Spotter aircraft pilot means an operator of an aircraft engaged by a vessel which fishes for red drum.

Total directed net harvest (TDNH) means the maximum permissible level of harvest for the red drum net fishery as specified in § 653.21.

Trip means a fishing trip regardless of number of days duration which begins with departure from a dock, berth, beach, seawall, or ramp and which terminates with return to a dock, berth, beach, seawall, or ramp.

Vessel of the United States means—

(a) Any vessel documented or numbered by the U.S. Coast Guard under United States law; or

(b) Any vessel, under five net tons, that is registered under the laws of any State.

§ 653.3 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

(c) These regulations apply within the boundaries of any national park, monument, or marine sanctuary in the Gulf of Mexico.

(d) These regulations will not be construed to supersede any State law which prohibits the landing or possession within the jurisdiction of that State of any red drum.

§ 653.4 Permits and fees.

(a) *Applicability.* Permits are required for all vessels fishing for red drum in the directed red drum net fishery in the FCZ. An application for a permit must be applied for by the owner or operator of such vessel on forms provided by the Regional Director. The owners and operators of vessels issued such permits must comply with the terms and conditions stated thereon.

(b) *Fees.* There is no fee for a permit issued under this section.

(c) *Display.* A permit issued under this section must be carried aboard the vessel at all times. The operator of a fishing vessel must present the permit for inspection upon request of an authorized officer.

§ 653.5 Reporting requirements.

(a) *Directed red drum net fishery.* Owners or operators of vessels that fish in the directed red drum net fishery:

(1) must notify Dr. Andrew Kemmerer or his designee, NMFS, Pascagoula Laboratory, Pascagoula, Mississippi 39567 (telephone 601–762–4591), 48 hours in advance of each trip, of departure information (port, dock, date, and time), the name of any spotter aircraft pilot to be used by said vessel, and of the expected landing information (port, dock, and date); and

(2) Must report information required under § 653.5(b) unless an NMFS or NMFS-approved observer is voluntarily accommodated aboard the vessel for scientific and statistical purposes.

(b) Owners or operators of vessels fishing in the directed red drum net fishery without observers aboard must:

(1) Report the following information by radio telephone or other suitable means to Dr. Andrew Kemmerer, or his designee, NMFS, (601–762–4591) at least six hours prior to their catch being landed:

(i) Name and address of owner or operator;

(ii) Name of vessel; and

(iii) Port and time of arrival.

(2) Report the following information by telephone or other suitable means to Dr. Andrew Kemmerer, or his designee, NMFS, (601–762–4591) within six hours after landing:

(i) Name and address of owner or operator;

(ii) Name of vessel;

(iii) Port and time of arrival.

(iv) Pounds of total catch;

(v) Total pounds of red drum caught; and

(vi) As to each set or deployment of net:

(A) Date and time set or deployed;

(B) Location of setting or deployment (latitude and longitude, or Loran C coordinate);

(C) Water depth;

(D) Quantity of fish captured (thousands of pounds);

(E) Quantity and condition of fish released (i.e. dead or alive);

(F) Percent of fish released by species;

(G) Reason for release of fish; and

(H) How fish were located (spotter pilot, scanner, echo sounders, or combination thereof); and

(vii) To whom red drum will be sold.

(c) Owners or operators of vessels fishing in a nondirected fishery landing red drum must—

(1) Report the following information by radio telephone or other suitable means to Dr. Andrew Kemmerer, or his designee, NMFS, (601–762–4591), at least six hours prior to landing:

(i) Name and address of owner or operator;

(ii) Name of vessel; and

(iii) Port and time of arrival.

(2) Report the following information by telephone or other suitable means to Dr. Andrew Kemmerer, or his designee, NMFS (601–762–4591), within six hours after landing;

(i) Name and address of owner or operator;

(ii) Name of vessel;

(iii) Port and time of arrival;

(iv) Pounds of total catch;

(v) Pounds of red drum caught;

(vi) Location of catch by grid zone (Figure 1);

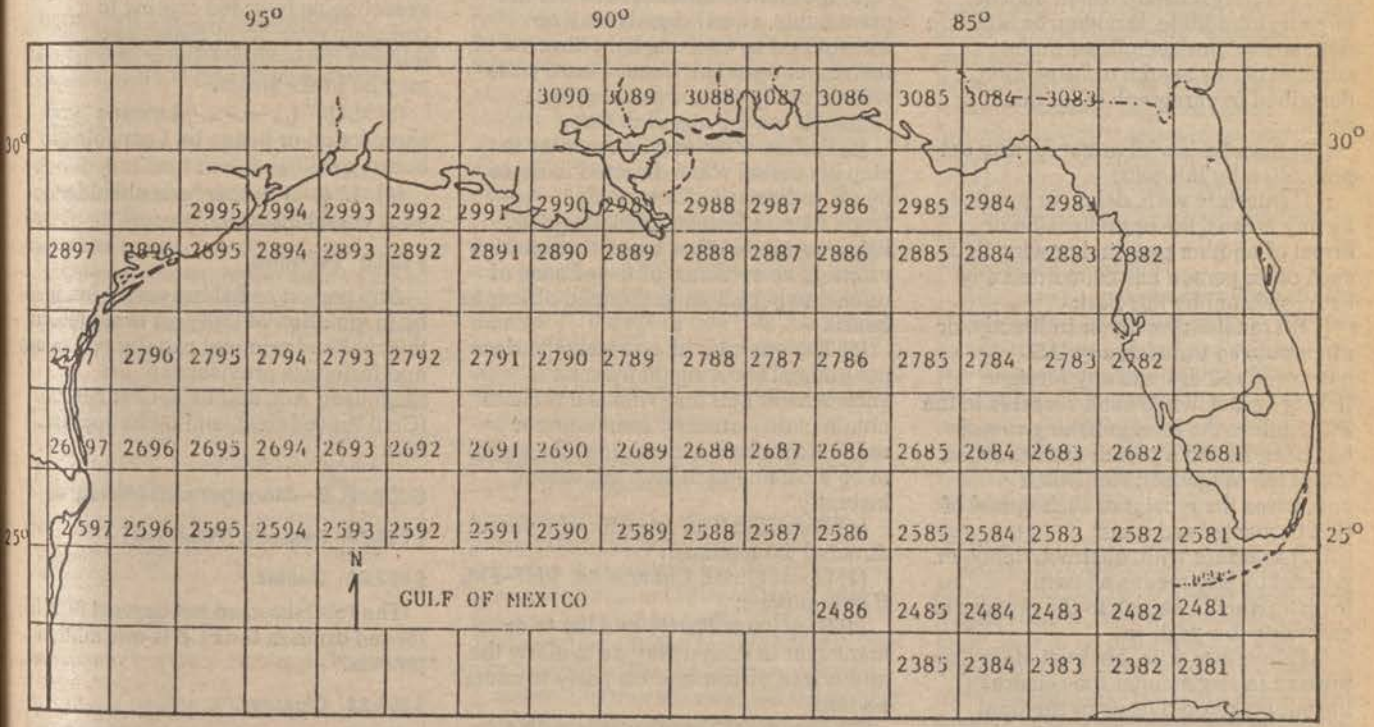
(vii) Gear used;

(viii) Depth of water fished;

(ix) Number of sets; and

(x) To whom red drum catch will be sold.

FIGURE 1—STATISTICAL GRIDS FOR REPORTING THE HARVEST OF RED DRUM



(d) Spotter aircraft pilots must record and submit to Dr. Andrew Kemmerer, or his designee, NMFS, Pascagoula Laboratory, Pascagoula, Mississippi 39567 (601–762–4591) within 24 hours after each spotting flight the following information.

(1) Date, time and location of departure;

(2) Date, time and location of landing;

(3) Route flown;

(4) Number and location of schools of fish sighter (latitude and longitude or loran C coordinates);

(5) Whether or not net set on each school (if known);

(6) Estimates of school sizes (pounds); and

(7) Estimate of species of school and percent of red drum.

§ 653.6 Vessel identification. [Reserved]

§ 653.7 Prohibitions.

(a) It is unlawful for any person to do any of the following:

(1) Fail to display the permit aboard a permitted vessel as required by § 653.4(c);

(2) Falsify or fail to report information required to be submitted by § 653.4, and § 653.5;

(3) Fish for red drum in the directed net fishery in the FCZ without a permit as specified in § 653.4;

(4) Fail to comply immediately with enforcement and boarding procedures specified in § 653.8;

(5) Purchase, sell, barter, trade, or accept in trade, red drum, harvested in the FCZ in the directed red drum net fishery after closure as specified in § 653.22 has been invoked. (This prohibition does not apply to trade in red drum harvested in the directed net fishery, landed and bartered, traded or sold prior to the closure and held in cold storage by dealers and processors).

(6) Land red drum the total weight of which exceeds five percent by weight of the total catch aboard a vessel utilizing a net to harvest the red drum after closure has been invoked as specified in § 653.22;

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any fish or parts thereof taken or retained in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(8) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(9) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (8) of this section;

(10) Resist a lawful arrest for any act prohibited by this part;

(11) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(12) Transfer directly or indirectly, or attempt to so transfer, any U.S. harvested red drum to any foreign fishing vessel, while such vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson Act which authorizes the receipt of such vessel of U.S. harvested red drum;

(13) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search in the process of enforcing this part; or

(14) Interfere with, obstruct, delay, or prevent in any manner the seizure of illegally taken red drum or the final disposition of such red drum through the sale of the red drum.

(b) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 653.8 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable) and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method of communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF–FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing lights signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Coast Guard Channel 16, VHF–FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and,

(5) Take such other actions as necessary to facilitate boarding and ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following additional signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals and appropriate action by a vessel operator is not required. However, knowledge of these signals by vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.—.—) [1] is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY–CY" (. –. –.— –. – . –. —) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... —.– ...—) means "you should stop or heave to: I am going to board you."

(4) "L" (.–..) means "you should stop your vessel instantly."

§ 653.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 15 CFR Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 653.20 Seasons. [Reserved]

§ 653.21 Quotas.

The total directed net harvest (TDNH) for red drum in the FCZ is one million pounds.

§ 653.22 Closures.

The Secretary, by publication of a notice in the **Federal Register**, will close the directed red drum net fishery when the TDNH specified in § 653.21 has been reached or is projected to be reached.

§ 653.23 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

[FR Doc. 86–14683 Filed 6–25–86; 4:15 pm]
BILLING CODE 3510–22–M

[1] Period (.) means short flash of light; dash (—) means a long flash of light.

Proposed Rules

Federal Register
Vol. 51, No. 125
Monday, June 30, 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.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Documentary Requirements for Nonimmigrants; Waivers, Admission of Certain Inadmissible Aliens, Parole

Correction

In FR Doc. 86-11440, beginning on page 18591 in the issue of Wednesday, May 21, 1986, make the following corrections:

1. On page 18594, in the third column, under the Part 214 heading, amendatory instruction 2, last line, "1" (one) should read "l" (the letter);

2. On page 18595, in the third column, nineteen lines from the bottom, the first "1" (one) should read "l" (the letter), and the second "1" (one) should remain unchanged; and

3. On page 18596, in the third column, twenty-seventh line, "Form I-1229L" should read "Form I-129L".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, 61, 70, and 72

Bankruptcy Filing, Notification Requirements

Corrections

In FR Doc. 86-13998 beginning on page 22531 in the issue of Friday, June 20, 1986, make the following correction:

On page 22531, in the third column, in the Discussion, in the twelfth line "or" should read "of".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-122-AD]

Airworthiness Directives; Lockheed-California Company Model L-188A and L-188C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require a modification to the wing air start access door of Lockheed L-188A and L188C airplanes. This action is prompted by numerous reports of severe structural vibration which has occurred during flight as a result of an open wing air start access door. This condition, if not corrected, could lead to structural damage to the airframe. This AD would require a modification of the wing air start access door to reduce it in size and, thus, reduce the vibration effect of an open door during flight.

DATES: Comments must be received no later than August 21, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-122-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: L-188, Technical Operations, Dept. 63-38. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rule 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 Rule Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-122-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been numerous reports of heavy vibration occurring on Lockheed L-188A and L-188C airplanes during flight, due to an open wing air start access door. At high angles of attack, the door can rotate forward around the leading edge, generating considerable turbulence around the airfoil, which can result in severe structural vibration. In a recent accident in which this situation occurred, the structural vibration was so severe that it diverted the crewmembers' attention from controlling the airplane and monitoring its airspeed.

The manufacturer has developed a design, Lockheed Drawing 842715, dated February 18, 1986, that reduces the size of the wing air start access door. Reduction in the door size will reduce any effect of vibration occurring if the door opens (or is left open) during flight.

Since this situation is likely to exist or develop on other airplanes of the same type design, the proposed AD would

require modification to the wing air start access door on Lockheed L-188A and L-188C airplanes in accordance with the above referenced drawing.

It is estimated that 60 airplanes of U.S. registry would be affected by this AD, that it would take approximately 30 manhours per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD is estimated to be $72,000.

For these reasons, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model L-188A and L-188C airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed Model L-188A and L-188C airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent airframe vibration from an open wing air start access door, accomplish the following:

A. Within 500 hours time in service from the effective date of this AD, modify the air start door in accordance with Lockheed Drawing 842715, Revision N/C, dated February 18, 1986, or later revision approved by the Manager, Los Angles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base to accomplish the modification required by this AD.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: L-188, Technical Operations, Dept. 63-38. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on June 23, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-14620 Filed 6-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-14-AD]

Airworthiness Directives; Piper Model PA-42-1000 Airplanes

Correction

In FR Doc. 86-14031, beginning on page 22824 in the issue of Monday, June 23, 1986, make the following correction:

On page 22824, in the third column, eleventh line from the bottom, the heading should read:

PART 39—[AMENDED]

BILLING CODE 1505-01-M

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14 CFR Part 39

[Docket No. 86-NM-136-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 (MD-80) Series Airplanes Equipped with Pratt and Whitney (P&W) JT8D-209, -217, or -217A Engines

Correction

In FR Doc. 86-14040, beginning on page 22822 in the issue of Monday, June 23, 1986, make the following correction:

On page 22822, in the third column, four lines from the bottom, the heading should read:

PART 39—[AMENDED]

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-249 (Virginia-4)]

High-Cost Gas Produced From Tight Formations; Virginia

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 Commonwealth of Virginia that the "Big Lime" Formation be designated as a tight formation under § 271.733(d).

DATE: Comments on the proposed rule are due on August 8, 1986.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on July 9, 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 Walter W. Lawson (202) 357-8556.

SUPPLEMENTARY INFORMATION:

High-Cost Gas Produced From Tight Formations

Issued June 24, 1986.

I. Background

On May 12, 1986, the Commonwealth of Virginia (Virginia) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR § 271.703 (1983)), that the "Big Lime" Formation located in southwest Virginia be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed

Rulemaking is hereby issued to determine whether Virginia's recommendation that the "Big Lime" Formation be designated a tight formation should be adopted. Virginia's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Virginia recommends that the "Big Lime" Formation located in southwest, Virginia be designated as a tight formation. The recommended area covers approximately 1,603 square miles and consists of most of Dickenson and Buchanan Counties and portions of Lee, Scott, Wise, Russell and Tazewell Counties.

The "Big Lime" Formation is the common driller's term for the Upper Mississippian, Greenbrier Limestone which overlies unconformably the MacCrady Shale and conformably lies below the Bluefield Formation. It is composed of a grey to tan, fine to medium crystalline, dense limestone with oolitic and dolomitic intervals. The oolitic and dolomitic intervals are the gas producing zones. The depth to the top of the formation ranges from above sea level along the Pine Mountain thrust exposure and on top of the Powell Mountain anticline near the northwest boundary to 1,950 feet below sea level to the south in Wise County. The formation ranges in thickness from 450 feet in the northwest to 950 feet toward the southeast.

III. Discussion of Recommendation

Virginia claims in its submission that evidence gathered by the Virginia Tight Formation Committee and presented to the state of Virginia 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, of wells completed for production in the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

(4) All existing state and federal regulations will be followed to assure proper casing of fresh water aquifer zones that are use for domestic or agricultural water supply.

Accordingly, under 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 Virginia that the "Big Lime" Formation as described and delineated in Virginia's recommendation 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 August 8, 1986. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–249 (Virginia—4), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An 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 Office of Public Information, Room 1000, 825 North Capitol Street, NW., Washington, DC, during business hours.

Any persons wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish 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 July 9, 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 Virginia's recommendation.

Raymond A. Beirne,

Acting Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended as follows:

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 by adding paragraph (d)(206) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(196) through (204) [RESERVED]

* * * * *

(206) *The "Big Lime" Formation in Virginia.* RM79–76–249 (Virginia–4)

(i) *Delineation of formation.* The "Big Lime" Formation is located in the plateau region of southwestern Virginia and consists of most of Dickenson and Buchanan Counties and portions of Lee, Scott, Wise, Russell, and Tazewell Counties (maps showing the recommended area are on file with the Commission).

(ii) *Depth.* The depth to the top of the formation ranges from above sea level along the Pine Mountain thrust exposure and on top of the Powell Mountain anticline near the northwest boundary to 1,950 feet below sea level to the south in Wise County. The formation ranges in thickness from 450 feet in the northwest to 950 feet toward the southeast.

[FR Doc. 86–14635 Filed 6–27–86; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 5, 7, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36, 74

Fees for Testing, Evaluation, and Approval of Mining Products, and Product Testing by Applicant or Third Party; Public Hearings

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearings.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold public hearings on its proposal to revise the existing system for charging user fees for the testing, evaluation, and approval of products manufactured for use in underground mining and its proposal to implement new procedures and requirements for testing and certification of certain products by manufacturers prior to third parties or MSHA approval. The latter proposal contains new technical requirements for brattice cloth and ventilation tubing, and revised requirements for battery assemblies currently contained in 30 CFR 18.44 and 18.63. The hearings will be held in Pittsburgh, Pennsylvania and Salt Lake City, Utah. The hearings are

being held in response to requests from the public and will cover the major issues raised by commenters in repsonse to the proposals.

DATES: All requests to make oral presentations for the record should be submitted at least five days prior to each hearing date. However, immediately before each hearing begins, time will be made available to persons making late requests.

The public hearings will be held at the following locations on the dates indicated beginning at 9:00 a.m. At each location, comments on Part 7, Product Testing by Applicant or Third Party, will be heard first. When all comments on that subject have been heard, comments on Part 5, Fees, will be received. Hearings will be continued on the following day at the same time and place, if necessary, to complete discussion of the issues. July 24, 1986: Pittsburgh, Pennsylvania. July 29, 1986: Salt Lake City, Utah

ADDRESSES: The hearings will be held at the following locations: July 24, 1986: Bureau of Mines Building Auditorium, First Floor, 4800 Forbes Avenue, Pittsburgh, Pennsylvania. July 29, 1986: Salt Palace Center, Room C104, 100 South West Temple, Salt Lake City, Utah.

Send requests to make oral presentations to: Mine Safety and Health Administrataion, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On February 6, 1986, MSHA published a proposal to implement new procedures and requirements for testing and certification of certain products used in underground mines prior to MSHA approval (51 FR 4686). The proposal also contained new technical requirements specific to brattice cloth and ventilation tubing, and revised requirements specific to battery assemblies. Battery assemblies are currently approved under 30 CFR 18.44 and 18.63. The comment period was subsequently extended to May 7, 1986 (51 FR 11586).

On April 16, 1986, MSHA published a proposal to revise the existing system of charging user fees for the testing, evaluation, and approval of products manufactured for use in underground mines (51 FR 12966). Exising fees would be updated to reflect the current cost to the government of providing these services, and fees would be established for services for which applicants currently are not charged. The proposed rule would implement statutory provisions concerning the recovery of agency costs for services furnished to individual beneficiaries and is part of a government-wide initiative to make services provided to the private sector self-sustaining to the extent possible. The comment period for the proposed rule closed on June 16, 1986. MSHA received several requests from commenters for a public hearing.

The purpose of the public hearings is to receive relevant comment and to answer questions concerning the proposals. The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions.

Each hearing will begin with an opening statement from MSHA. The public will then be given an opportunity to make oral presentations. During these presentations, the hearing panel will be available to answer relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Time will be made available at the end of each hearing for rebuttal statements. A verbatim transcript of each proceeding will be taken and made part of the rulemaking record. Copies of the hearing transcripts will be available for review by the public.

MSHA will also accept additional written comments and other appropriate data from interested parties, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of post-hearing comments, the record will remain open until August 12, 1986.

Issues

Commenters questioned many specific provisions contained in the proposals. MSHA has summarized here the major issues raised on which comment is specifically solicited. These aspects of the proposals will be discussed at the public hearings, as will any other aspects on which interested parties wish to present comments or data.

PART 7—TESTING BY APPLICANT OR THIRD PARTY

Product Testing

The Part 7 proposal would require the applicant or a third party selected by the applicant to conduct MSHA-specified tests. While most commenters supported the concept of testing by parties other than MSHA, some requested that MSHA retain its testing service as an alternative for manufacturers who prefer to use the service. Others urged that only third parties be allowed to perform testing and that they should be certified or accredited laboratories. One commenter stated that all testing performed by applicants or third parties should be verified by MSHA testing.

Distribution Records

Section 7.7(c) of the proposal would require that applicants maintain records of their products' distribution for the projected service life of the product. MSHA specifically solicited comments on the need to specify a set time for maintaining these records and what the appropriate time period should be for brattice cloth and ventilation tubing, and battery assemblies. One commenter stated that the service life alone is not a good basis for determining a record retention period and that it is not possible to specify the service life of brattice cloth. Another commenter projected a maximum service life of 10 years for battery assemblies and suggested adding a requirement for a serial number on each unit to aid in tracing defective products. MSHA requests additional information on determining the appropriate record retention period.

Post-approval Product Audits

Several commenters on Part 7 raised concerns about the number of approved products to be audited per year for each manufacturer. They stated that some manufacturers hold many different approvals from MSHA and that, as a result, they could be subjected to many audits each year. They also raised concerns regarding the cost of audits. While no one objected to providing a product at no cost once a year, they stated that the cost of providing the product was the only cost which should be borne by the applicant.

Test Procedures

In the test procedures specified in proposed §§ 7.27, 7.28, 7.46, 7.47, and 7.48, MSHA would require that test apparatus have certain design elements and dimensions, and that the tests be performed as specified to produce uniform and consistent results. However, where variations in design or procedure would not affect the reliability of the test results, MSHA would allow flexibility. One commenter suggested that the proposed test procedures for brattice cloth and

ventilation tubing be more clearly described to assure uniformity among testers. Another commenter suggested more specificity in the test procedures for battery assemblies. MSHA is concerned about striking a balance between the necessity to obtain uniform test results and the desire to allow flexibility where test results would not be affected.

PART 5—FEES FOR TESTING, EVALUATION, AND APPROVAL OF MINING PRODUCTS

Authority to Test and Approve Equipment

One commenter contended the MSHA does not have the authority to test and approve equipment used in underground mines. This commenter stated that the Bureau of Mines enabling statute, from which MSHA's authority is derived, only applies to research activities and does not grant regulatory authority. Further, the commenter contended that the Bureau of Mines authority to charge fees applies only to these research activities.

Intent of the Independent Offices Appropriation Act (IOAA)

In the preamble to the Part 5 proposal, MSHA summarized the IOAA and court cases interpreting it, concluding that the Agency is required to charge fees for services which provide a benefit. Several commenters stated that the benefit conferred by MSHA is not specific to an individual applicant, but to the mining industry as a whole and the public in general. One commenter also contended the MSHA has misapplied the IOAA in determining the individual fees because MSHA has not established the actual costs of the testing and approval functions.

Magnitude of the Increase in Fees

Most commenters objected to the magnitude of increase between existing fees and the fee schedule based on the proposal. They suggested alternative methods of calculating fees such as the average increase in wages, market competitive rates, and the increase in the Consumer Price Index. They stated that the large increase is due to the inclusion of charges for services not directly attributable to the hazards of fires and explosions and inefficiencies in the system, and that the increases will inhibit technological advances in the mining industry.

Post-Approval Product Audits

Two commenters objected to charges for repeat product audits conducted because of a problem identified with the product during an initial audit. One commenter stated that the entire audit program is directed toward improving conditions in the mining industry in general and that, therefore, a fee should not be charged for either initial or repeat audits.

Dated: June 25, 1986.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 86-14694 Filed 6-27-86; 8:45 am]

BILLING CODE 6510-43-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A-10-FRL-3039-2]

Approval and Promulgation of State Implementation Plan and Designation of Areas for Air Quality Planning Purposes; State of Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: By this Notice, EPA proposes to approve the redesignation of the Seattle-Tacoma, Washington, "nonattainment" area to "attainment" for the primary ozone (0_3). The redesignation request is based on supporting documentation prepared by the Puget Sound Air Pollution Control Agency (PSAPCA) and submitted by EPA by the Washington State Department of Ecology (WDOE) pursuant to section 107(d) of the Clean Air Act. Air quality data and emission reductions achieved through implementation of control strategy measures support this redesignation.

In addition, EPA proposes to approve the 0_3 maintenance plan as a State Implementation Plan (SIP) revision and revisions to the volatile organic compound (VOC) regulations. Because of pending finalization of specific guidance dealing with allowable compliance date extensions for certain VOC source categories, EPA will take separate action in regard to approval of compliance date extensions for two VOC sources in the nonattainment area.

DATE: Comments must be postmarked on or before July 30, 1986.

ADDRESS: Comments should be addressed to: Laurie M. Karl, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A-85-6 and 10A-85-3), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, 4224 6th Ave. SE., Rowe Six, Building #4, Lacey, Washington 98504

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442-4232, (FTS) 399-4232.

SUPPLEMENTARY INFORMATION:

I. Background

On March 3, 1978 (43 FR 8962) EPA designated, pursuant to requirements of section 107(d) of the Clean Air Act, all areas of the country as "attainment," "nonattainment," or "unclassifiable" in terms of meeting National Ambient Air Quality Standards (NAAQS). At that time, the Seattle-Tacoma, Washington, area, encompassing parts of King, Snohomish and Pierce Counties, was designated "nonattainment" for primary O_3 standards in 40 CFR Part 81, § 81.348.

EPA approved the Seattle-Tacoma, Washington, O_3 attainment plan on February 28, 1982 (48 FR 8273).

PSAPCA and WDOE held a joint public hearing on December 13, 1984, to obtain public comment on revisions to PSAPCA Regulation II (VOC controls, requiring reasonably available control technology) which would provide for maintenance of the National Ambient Air Quality Standard for O_3 by making the current VOC controls apply to the entire King, Kitsap, Pierce, and Snohomish County area. The designated O_3 nonattainment area included portions of King, Pierce, and Snohomish, but none of Kitsap County. WDOE submitted the adopted revisions to EPA on February 21, 1985. The submittal included documentation of reasonable further progress toward attaining the O_3 standard based on emission reductions and air quality improvement resulting from implementation of the approved O_3 control strategy.

In addition, the February 21 submittal included a request for EPA to act on three variances for VOC sources, which had been previously submitted to EPA on May 7, 1984. Bacause of the impending action at that time by PSAPCA to request redesignation of the Seattle-Tacoma O_3 area to attainment, EPA postponed action on those variances at that time. Because of pending finalization of specific guidance dealing with allowable compliance date extensions for certain VOC sources, EPA will take separate action in regard

to approval of compliance date extensions included in the variances for two of the sources; the third source has permanently ceased operations and no further action is necessary.

II. Technical Evaluation

A. Attainment Demonstration

1. Air Quality

The redesignation request included data from four monitoring stations inside the nonattainment area and two outside, none of which show violations of the O_3 standard from 1982 through 1985. An exceedance analysis of the four nonattainment area monitors shows no more than one expected exceedance at each site for 1982–1985. This more than satisfies the redesignation guidance requiring at least three years of data showing no more than an average of one expected exceedance per year.

The air monitoring data are considered generally representative of the maximum ambient O_3 levels in the impacted air mass within the Seattle-Tacoma O_3 nonattainment area. The WDOE quality assurance program has been approved by EPA as satisfying the requirements of 40 CFR Part 58.

2. VOC Emission Reduction

The approved O_3 SIP called for a 32 percent reduction of 1980 emissions in order to demonstrate attainment. The projected attainment date was September 30, 1984. However, because the actual emission reductions were greater than projected, the required 32 percent reduction was achieved as of January 1, 1983. This relates to 1980 emissions of 357,000 kg/summer weekday which were reduced to 244,000 kg/summer weekday in 1983.

The emission reductions were achieved through implementation of VOC regulations, vehicle inspection and maintenance (I/M) and the federal motor vehicle emission control program (FMVECP). Also, since the industrial and commercial activity in the area were normal during this time period, the emission reduction does not reflect curtailment of source operation because of depressed economy.

B. Maintenance Demonstration

1. VOC Regulations

The approved VOC strategy has been revised to be applicable throughout PSAPCA's four-county jurisdiction, instead of the three-county (portions of) O_3 nonattainment area. This will continue the existing controls and call for new emission reductions for sources not previously covered. Regulation II and "Monitoring and Reporting Procedures for VOC Sources," as revised by PSAPCA Resolution No. 568, will be proposed for approval as part of the SIP.

2. VOC Emission Reduction Projections

Emission reduction projections are based on the same growth factors as the approved SIP. Continued reductions from Regulation II–VOC controls, I/M and FMVECP coupled with the expanded coverage of Regulation II, will ensure maintenance of the O_3 standard.

3. VOC Source Variances

Variances for three VOC sources in the nonattainment area were included in the approval control strategy and were submitted to EPA on May 7, 1984. EPA did not act on the variances at that time because PSAPCA had indicated that a request for redesignation to attainment was being prepared.

At this point, one of the sources has ceased operations, leaving two flexographic printing operations under extended compliance schedules. EPA is currently in the process of finalizing guidance with respect to appropriate compliance timetables for graphic arts sources, including flexographic printers. Upon finalization of the guidance, EPA will publish a separate **Federal Register** action regarding approval of these compliance schedule extensions.

Copies of the three variances along with a technical support document describing each are included in the docket file.

EPA believes that the SIP for this area has been substantially implemented and that reasonable safeguards exist in the currently approved control strategy to ensure that the two previously mentioned flexographic sources will achieve final compliance. Therefore, full implementation of the SIP is assured and the redesignation portion of the state's submittal is approvable.

III. Proposed EPA Action

EPA proposes to (1) redesignate the Seattle-Tacoma, Washington O_3 nonattainment area to attainment for the primary O_3 standard; (2) approve the O_3 maintenance plan as a SIP revision; and (3) approve Regulation II and "Monitoring and Reporting Procedures for VOC Sources" as amended by PSAPCA Resolution 568.

Interested parties are invited to comment on all aspects of this proposed approval of the redesignation and the Washington SIP revision. Comments should be submitted to the address listed in the front of this Notice. Public comments postmarked by July 30, 1986 will be considered in any final action EPA takes on this proposal.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have significant impact on a substantial number of small entities (46 FR 8709).

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

Authority: 42 U.S.C. 7401–7642.

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

40 CFR Part 81

Air Pollution Control Agency, National parks, Wilderness areas.

Dated: March 7, 1986.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 86–14539 Filed 6–27–86; 8:45 am]

BILLING CODE 6560–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1052

[Ex Parte No. MC–42]

Handling of C.O.D. Shipments

AGENCY: Interstate Commerce Commission.

ACTION: Supplemental request for comments to notice of proposed rulemaking.

SUMMARY: This proceeding was instituted by notice of proposed rulemaking (NPR) published March 30, 1981 (46 FR 19271). The NPR proposed to amend the Commission's regulations governing the collection and remittance of funds for cash-on-delivery (c.o.d.) shipments (49 CFR 1052.3) and the recordkeeping requirements for carriers handling c.o.d. shipments (49 CFR 1052.4). Comments were received, but no action was taken because of the Commission's anticipated review of its credit regulations. However, the revised credit regulations (49 CFR Part 1320) did not address the c.o.d. regulations. The Commission now proposes to revise § 1052.3 to allow each carrier to publish its own nondiscriminatory c.o.d. tariff provisions and to repeal the recordkeeping requirements of section 1052.4.

DATES: Comments are due by July 31, 1986.

ADDRESSES: The original and, if possible, 10 copies of the comments referring to Ex Parte No. MC–42 should be sent to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Barry (202) 275–7540

or

Mark S. Shaffer (202) 275–7805

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357 in the DC Metropolitan area or (800) 424–5403, toll-free, outside the DC area.

This action will not significantly affect either the quality the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

The Commission certifies that adoption of the proposed modification will not have a significant economic impact on a substantial number of small entities because the proposed amendments would not be mandatory and would allow more flexible, individualized procedures.

List of Subjects in 49 CFR Part 1052

Motor carriers.

Decided: June 23, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

PART 1052—[AMENDED]

We propose to amend 49 CFR 1052 as follows:

1. The authority citation for 49 CFR Part 1052 would be revised to read as follows:

Authority: 49 U.S.C. 304, 311, 315, 316, 319, 320; 49 U.S.C. 10101, 10321, 10922, 10762, 11101, and 5 U.S.C. 553.

2. The heading and text of § 1052.3 would be revised to read as follows:

§ 1052.3 Collection and remittance.

Every common carrier of property subject to the Interstate Commerce Act, except as otherwise provided in § 1052.1, which provides any c.o.d. service must publish and maintain a tariff or tariffs which set forth nondiscriminatory rules governing the collection and remittance of c.o.d. funds.

§ 1052.4 [Removed]

3. Section 1052.4 would be removed.

[FR Doc. 86–14653 Filed 6–27–86; 8:45 am]

BILLING CODE 7035-01-M

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

National Animal Damage Control Advisory Committee; Intent to Establish

Notice is hereby given that the Secretary of Agriculture proposes to establish the National Animal Damage Control Advisory Committee for a 2-year period. The Secretary has determined that establishing the Committee is in the public interest in connection with duties imposed on the Department by the Continuing Resolution of December 19, 1985, which transferred the Animal Damage Control Research and Operations program from the Department of the Interior to the Department of Agriculture.

The purpose of the Committee will be to provide advice to the Secretary on policies, program issues, and research needed to conduct the Animal Damage Control Program. The Committee will also serve as a public forum which will enable those affected to have a voice in the program's policies. Equal opportunity practices, in line with U.S. Department of Agriculture policies, will be followed in all appointments to the Committee. Membership will consist of persons representing the livestock, poultry, and grain producers; environment and conservation groups; urban interests; academia and the pesticide industry.

The Assistant Secretary, Marketing and Inspection Services, U.S. Department of Agriculture, will serve as Chairperson of the Committee, and the Administrator, Animal and Plant Health Inspection Service will serve as Vice-Chairperson. The Committee will meet at least annually.

This notice is given in compliance with the Federal Advisory Committee Act (Pub. L. 92-468). Views and comments of interested persons may be submitted to the Administrator, Animal and Plant Health Inspection Service, Room 312-E, U.S. Department of Agriculture, Washington, DC 20250, until 15 days after publication in the **Federal Register**. Such comments will be available for public inspection during regular business hours (7 CFR 1.27 (b)).

Done at Washington, DC, this 24th day of June 1986.

John J. Franke,

Assistant Secretary for Administration.

[FR Doc. 86-14655 Filed 6-27-86; 8:45 am]

BILLING CODE 3410-34-M

Privacy Act Systems of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of systems of records, rescission of a system of records, and notice of a new system of records under the Privacy Act of 1974.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the U.S. Department of Agriculture is revising four of its systems of records maintained by the Federal Grain Inspection Service, USDA, to clarify language, reflect organizational changes as to responsibility for maintaining these records, make changes in categories of individuals covered and records maintained, and make changes in routine uses. One system of records maintained by the Federal Grain Inspection Service is being rescinded because those records are maintained by the U.S. Department of Labor. In addition, a new system of records, USDA/FGIS-6, Conflicts of Interest of Employees of Official Agencies and of Individuals Under Contract with the Federal Grain Inspection Service, is being added. This new system of records will enable the Federal Grain Inspection Service to ensure the integrity of the inspection and weighing process.

EFFECTIVE DATE: July 30, 1986. Comments must be received by the contact person listed below on or before July 30, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Staff, USDA, FGIS, RMD, Room 1661 South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: The Federal Grain Inspection Service (FGIS) hereby revises the following systems of records:

(a) USDA/FGIS-1, Employment History Records for Licensed Nonfederal Employees (43 FR 51298). The purpose of this system of records revision is to: (1) Clarify language; (2) reflect organizational changes as to responsibility for maintaining these records; (3) change the categories of individual covered by deleting the references to "commodity" and "graders", because these individuals are covered under the category of "inspectors"; (4) add "commendations" to the category of records maintained; and (5) make deletions in routine uses that are no longer applicable.

(b) USDA/FGIS-2, Investigations Undertaken by the Government Pursuant to the U.S. Grain Standards Act of 1976, or the Agricultural Marketing Act of 1946 (43 FR 51298-51299). The purpose of this system of records revision is to: (1) Clarify language; (2) reflect organizational changes as to responsibility for maintaining these records; and (3) identify automated data systems as a new storage system technique.

(c) USDA/FGIS-3, Subsidiary Personnel Records (43 FR 51299). The purpose of this system of records revision is to: (1) Clarify language; (2) reflect organizational changes as to responsibility for maintaining these records; (3) change the title of the record by removing the word "pay" because these records are no longer maintained, and (4) add "position descriptions" and "documentation of employees performance and proficiency" to the category of records maintained.

(d) USDA/FGIS-4, Nonviolation Case File System on Individuals Subject to the U.S. Grain Standards Act or Agricultural Marketing Act of 1946 (44 FR 69315-69316). The purpose of this system of records revision is to: (1) Clarify language; (2) reflect organizational changes as to responsibility for maintaining these records; (3) add a routine use of release of records to the Department of Justice and appropriate courts; and (4) identify automated data systems as a new storage system technique.

USDA/FGIS-5, Occupational Injury/Illness and Motor Vehicle Accident Case Files (46 FR 40544-40545) is hereby

rescinded because these records are maintained by the U.S. Department of Labor.

A new system of records USDA/FGIS–6, Conflicts of Interest of Employees of Official Agencies and of Individual under Contract with the Federal Grain Inspection Service, is being added. This system of records consists of all forms, correspondence, and other data pertinent to processing conflict-of-interest reports. With increased Government participation in the domestic and international marketing of grain, as mandated by the U.S. Grain Standards Act of 1976, it is imperative that all FGIS employees be able to identify and resolve possible conflicts of interest. Public confidence in the inspection and weighing services provided by FGIS depends on our ability to maintain as well as increase the high standards of integrity of the Agency.

In addition, new routine uses concerning the release of records to the Department of Justice and in proceedings before a court or adjudicative body have been added to USDA/FGIS–1, 2, 3, and 4 and included in USDA/FGIS–6. These new uses are being promulgated to address concerns expressed by the district court in *Krohn v. Department of Justice*, Civil No. 78–1536 (D.D.C. March 19, 1984). In *Krohn*, an FBI routine use providing for disclosure "during appropriate legal proceedings" was held to be "vague and capable of being construed so broadly as to encompass all legal proceedings * * * (and) would make disclosure as a 'routine use' the rule rather than the exception and thus subvert the purposes of the (Privacy) Act." The new routine uses are designed to restrict the amount of information released during litigation.

Signed at Washington, DC, on June 24, 1986.

Peter C. Myers,

Acting Secretary.

Privacy Act System USDA/FGIS–1 Report

The purpose of this system of records revision is to (1) clarify language, (2) reflect organizational changes as to the responsibility for maintaining these records, (3) make changes in categories of individuals covered and records maintained, and (4) add new routine uses.

The authority for maintaining this system of records is 7 U.S.C. 71 *et seq.* and 7 U.S.C. 1621 *et seq.*

Use of this system, as established, should not result in infringement of any individual's right to privacy. While some of the information in this system will be made available to others, all individuals about whom information in this system is maintained will voluntarily submit the information for the express purpose of participating in the Federal Grain Inspection Service (FGIS) licensing program.

Custody of the records in this system will be limited to Department of Agriculture employees who maintain and update the files.

Use of this system will have no effect upon privacy and other personal or property rights of individuals or on the preservation of the Constitutional principles of federalism and separation of powers.

These records are stored in Government office buildings, locked offices or locked file cabinets and maintained in file folders, notebooks, and on computers.

The revised system of records is not exempt from any provisions of the Privacy Act.

Privacy Act System USDA/FGIS–2 Report

The purpose of this system of records revision is to (1) clarify language, (2) reflect organizational changes as to the responsibility for maintaining these records, (3) identify a new storage system, and (4) add new routine uses.

The authority for maintaining this system of records is 7 U.S.C. 71 *et seq.* and 7 U.S.C. 1621 *et seq.*

Use of this system, as established, should not result in infringement of any individual's right to privacy. While some of the information in this system will be made available to others, all individuals about whom information in this system is maintained will voluntarily submit the information for the express purpose of participating in the Federal Grain Inspection Serive (FGIS) investigations program.

Custody of the records in this system will be limited to Department of Agriculture employees who maintain and update the files.

Use of this system will have no effect upon privacy and other personal or property rights of individuals or on the preservation of the Constitutional principles of federalism and separation of powers.

These records are stored in Government office buildings, locked offices, or locked file cabinets and maintained in file folders and incorporated in an automated data system.

The system has been exempted under 5 U.S.C. 552a(k)(2) from the requirement of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (H) and (I), and (f) because it consists of investigatory material compiled for law enforcement purposes.

Privacy Act System USDA/FGIS–3 Report

The purpose of this system of records revision is to (1) clarify language, (2) reflect organizational changes as to the responsibility for maintaining these records, (3) change title, (4) make changes in categories of records maintained, and (5) add new routine uses.

The authority for maintaining this system of records is 5 U.S.C. 301, and 7 U.S.C. 75a.

Use of this system, as established, should not result in infringement of any individual's right to privacy. While some of the information in this system will be made available to others, all individuals about whom information in this system is maintained will voluntarily submit the information for the express purpose of participating in the Federal Grain Inspection Service (FGIS) inspection and weighing program.

Custody of the records in this system will be limited to Department of Agriculture employees who maintain and update the files.

Use of this system will have no effect upon privacy and other personal or property rights of individuals or on the preservation of the Constitutional principles of federalism and separation of powers.

These records are stored in file folders in Government office buildings, locked offices, or locked file cabinets.

The revised system of records is not exempt from any provisions of the Privacy Act.

Privacy Act System USDA/FGIS–4 Report

The purpose of this system of records revision is to: (1) Clarify language, (2) reflect organizational changes as to the responsibility for maintaining these records, (3) add new routing uses, and (4) identify a new storage system.

The authority for maintaining this system is 7 U.S.C. 71 *et seq.* and 7 U.S.C. 1621 *et seq.*

Use of this system, as established, should not result in infringement of any individual's right to privacy. While some of the information in this system will be made available to others, all individuals about whom information in this system is maintained will voluntarily submit the information for the express purpose of participating in the Federal Grain Inspection Service (FGIS) inspection and weighing program.

Custody of the records in this system will be limited to Department of Agriculture employees who maintain and update the files.

Use of this system will have no effect upon privacy and other personal or property rights of individuals or on the preservation of the Constitutional principles of federalism and separation of powers.

These records are stored in Government office buildings, locked offices, or locked file cabinets and maintained in file folders and incorporated into an automated data system.

The revised system of records is not exempt from any provisions of the Privacy Act.

Privacy Act System USDA/FGIS–6 Report

The purpose of this proposed system of records is to provide the United States Department of Agriculture, Federal Grain Inspection Service (FGIS) with the necessary information pertinent to conflicts of interest reports. Public confidence in the inspection and weighing services provided by FGIS depends on the ability to maintain as well as increase the high standards of integrity of the agency.

The authority for maintaining this system is 7 U.S.C. 87 *et seq.*

Use of this system, as established, should not result in infringement of any individual's right to privacy. While some of the information in this system will be made available to others, all individuals about whom information in this system is maintained will voluntarily submit the information for the express purpose of participating in the Federal Grain Inspection Service (FGIS) inspection and weighing program.

Custody of the records in this system will be limited to Department of Agriculture employees who maintain and update the files.

Use of this system will have no effect upon privacy and other personal or property rights of individuals or on the preservation of the Constitutional principles of federalism and separation of powers.

These records are stored in Government office buildings, locked offices, or locked file cabinets and maintained in file folders.

The system of records is not exempt from any provisions of the Privacy Act.

USDA/FGIS–1

SYSTEM NAME:

USDA/FGIS–1, Employment History Records for Licensed Nonfederal Employees.

SYSTEM LOCATION:

Federal Grain Inspection Service, USDA, 1400 Independence Avenue, SW., Washington, DC 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Inspectors, Weighers, Samplers, Technicians.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of applications for license; license files; biographical data; functions which the licensee may perform; licensee's powers of attorney; factors which affect or might affect desirability as a licensee; current, expired, and voided licenses; license examination score sheets; license renewal score sheets; miscellaneous notes and memorandums, e.g., transfers, cancellations, letters of corrective action, commendations, caution or warning, suspensions, and proposals to revoke license. Content and extent of these records vary by commodity, program, and season.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 71 *et seq.*, 7 U.S.C. 1621 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) To prepare required reports for the General Accounting Office; (2) To prepare required reports for the Department of Justice; (3) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto; (5) Disclosure to the Department of Justice for use in litigation when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected; (6) Disclosure in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation; provided, however that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected; and (7) To answer Congressional inquiries made at the request of the individual from whose record information is disclosed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, notebooks, and computers.

RETRIEVABILITY:

Records are indexed by name of licensee and/or license number.

SAFEGUARDS:

Government office buildings, locked offices, or locked file cabinets.

RETENTION AND DISPOSAL:

Destroy immediately when licensee is deceased, or 10 years after license is terminated. Records are maintained in accordance with the General Services Administration disposal schedules, as implemented by FGIS Instruction 251.1, Records Management Program.

SYSTEM MANAGER AND ADDRESS:

Director, Field Management Division, USDA, Federal Grain Inspection Service, 1400 Independence Ave., SW., Washington, DC 20250.

NOTIFICATION PROCEDURE:

Individuals may request information concerning themselves from this system by submitting a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Individuals may contest a record in the system that pertains to them by submitting a request to the System Manager.

RECORD SOURCE CATEGORIES:

Information in the System comes primarily from licensees and supervisors. Additional data may be provided by investigative personnel.

USDA/FGIS-2

SYSTEM NAME:

USDA/FGIS–2, Investigations Undertaken by the Government Pursuant to the U.S. Grain Standards Act of 1976, as amended, or the Agricultural Marketing Act of 1946, as amended.

SYSTEM LOCATION:

Federal Grain Inspection Service, USDA, 1400 Independence Avenue, SW., Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are regulated by the subject Acts and who have been investigated for possible violation of the Acts and/or against whom the Department recommends that an enforcement action be brought by the Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of investigatory material which may include intra- and interdepartmental recommendations pertaining to an alleged violation of the subject Acts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 71 *et seq.*, 7 U.S.C. 1621 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or particular program statute, or by rule, regulation, or order issued pursuant thereto; (2) Disclosure to the Department of Justice for use in litigation when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected; (3) Disclosure in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected; and (4) To answer Congressional inquiries made at the request of the individual from whose record information is disclosed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and incorporated in an automated data system.

RETRIEVABILITY:

Records are indexed by subject and chronological sequence. The subject could be the name of the individual.

SAFEGUARDS:

Government office buildings, locked offices, or locked file cabinets.

RETENTION AND DISPOSAL:

Records for basic investigations are retained for 5 years, unless the investigation involves licensee conflicts of interest, then records are to be retained for 10 years. Records are maintained in accordance with General Services Administration disposal schedules, as implemented by FGIS Instruction 251.1, Records Management Program.

SYSTEM MANAGER AND ADDRESS:

Director, Compliance Division, USDA, Federal Grain Inspection Service, 1400 Independence Avenue, SW., Washington, D.C. 20250.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The system has been exempted under 5 U.S.C. 552a(k)(2) from the requirement of 5 U.S.C. 552a (c)(3), (d), (e)(4) (G), (H), and (I), and (f) because it consists of investigatory material compiled for law enforcement purposes. See 7 CFR 1.123. Individual access to these files could impair investigations and alert subjects of investigations that their activities are being scrutinized, and thus allow them time to take measures to prevent detection of illegal action or escape prosecution. Disclosure of investigative techniques and procedures and the existence and identity of confidential sources of information would hamper law enforcement activity.

USDA/FGIS-3

SYSTEM NAME:

USDA/FGIS–3, USDA/FGIS Subsidiary Personnel Records.

SYSTEM LOCATION:

Federal Grain Inspection Service, USDA, 1400 Independence Avenue, SW., Washington, D.C. 20250, and field offices at locations listed in the Federal Grain Inspection Service Field Office Listing publication.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees and applicants for reemployment with the Federal Grain Inspection Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of copies of materials maintained in Official Personnel Folders, such as personnel action documents, position descriptions, applications for employment, education and training data, performance and appraisal ratings, the documentation of employee performance and proficiency, and time and attendance reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 7 U.S.C. 75a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) For FGIS officials to review appointments, promotions, within-grade

increases, training, transfers, and determination of qualification of an individual; (2) To prepare required records and reports to the Office of Personnel Management, Department of Labor, Merit Systems Protection Board, and Office of Management and Budget; (3) Referral to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto; (4) Disclosure to the Department of Justice for use in litigation when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected; (5) Disclosure in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected; and (6) To answer Congressional inquiries made at the request of the individual from whose record information is disclosed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Government office buildings, locked offices, or locked file cabinets.

RETENTION AND DISPOSAL:

Records are reviewed annually and superseded documents are destroyed; or destroy all documents relating to an individual employee 1, year after separation or transfer. Records are maintained in conformance with appropriate General Services Administration disposal schedules and implemented by FGIS Instruction 251.1, Records Management Program.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Resources Management Division, USDA, Federal Grain Inspection Service, 1400 Independence Avenue, SW., Washington, DC 20250.

NOTIFICATION PROCEDURE:

Individuals may request information concerning themselves from this system by submitting a written request to the System Manager or to their individual supervisors at the appropriate office having custody of their records. The request for information should contain the name and address of the requester and the particular information requested.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Individuals may request a change or amendment of their records. This request should be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the individual to whom it applies or is derived from information the individual supplied, except information provided by agency officials on performance, appraisal, pay, leave, and allowance records.

USDA/FGIS–4

SYSTEM NAME:

USDA/FGIS–4, Nonviolation Case File System on Individuals Subject to the U.S. Grain Standards Act, as amended, or the Agricultural Marketing Act of 1946, as amended.

SYSTEM LOCATION:

Federal Grain Inspection Service, USDA, 1400 Independence Avenue, SW., Washington, DC 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are regulated by the subject Acts and who have been referenced in an investigation or other information for possible violations of the Acts or other Federal law with respect to the handling, weighing, or official inspection of commodities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on individuals who are subject to the rules of the U.S. Grain Standards Act, as amended, or the Agricultural Marketing Act of 1946, as amended, and activities which might lead to possible violations of these Acts or violations of other Federal law with respect to the handling, weighing, or official inspection of commodities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 71 *et seq.*, 7 U.S.C. 1621 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Use of such records will be limited to authorized personnel of the Federal Grain Inspection Service; (2) Disclosure to the Department of Justice for use in litigation when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information containd in the records that is compatible with the purpose for which the records are collected; (3) Disclosure in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her

individual capacity where the agency has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation; provided, howeer, that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and incorporated into an automated data system.

RETRIEVABILITY:

Records are indexed by subject and chronological sequence. The subject could be the name of an individual.

SAFEGUARDS:

Government office building, locked offices, or locked file cabinets.

RETENTION AND DISPOSAL:

Records are retained for 5 years in conformance with appropriate General Services Administration disposal schedules as implemented by FGIS Instruction 251.1, Records Management Program.

SYSTEM MANAGER AND ADDRESS:

Director, Compliance Division, USDA, Federal Grain Inspection Service, 1400 Independence Avenus, SW., Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

Individuals may request information concerning themselves from this system by submitting a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Individuals may contest a record in a system that pertains to them by submitting a request to the System Manager.

RECORD SOURCE CATEGORIES:

Information in this sytem comes primarily from complaints, case file reviews, investigative reports, Agency employees, and the news media.

USDA/FGIS-6

SYSTEM NAME:

USDA/FGIS–6, Conflicts of Interest of Employees of Official Agencies and of Individuals under Contract with the Federal Grain Inspection Service.

SYSTEM LOCATION:

Federal Grain Inspection Service, USDA, 1400 Independence Avenus, SW., Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee of an official agency or any individual under contract with FGIS who has a potential conflict of interest.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of all forms, correspondence, and other data pertinent to processing conflict of interest reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 87 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local of foriegn, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto; (2) Disclosure to the Department of Justice for use in litigation when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected; (3) Disclosure in a proceeding before a court of adjudicative body before which the agency is authorized to appear, when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected; and (4) To answer Congressional inquiries made at the request of the individual from whose record information is disclosed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in individual file folders at the above address.

RETRIEVABILITY:

Records are alphabetically indexed by the last name of the individual.

SAFEGUARDS:

Records are kept in Government office buildings, in locked offices, or in locked file cabinets.

RETENTION AND DISPOSAL:

Records involving Registrant conflicts of interest are retained for 5 years, and Licensee conflicts of interest records are retained for 10 years after license is terminated, or destroyed immediately when licensee is deceased. Records are maintained in accordance with General Services Administration disposal schedules as implemented by FGIS Instruction 251.1, Records Management Program.

SYSTEM MANAGER AND ADDRESS:

Director, Compliance Division, FGIS, USDA, 1400 Independence Avenue, SW., Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

Individuals may request information concerning their records by submitting a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORDS PROCEDURE:

Individuals may contest a record in a system that pertains to them by submitting a written request to the System Manager.

RECORD SOURCE CATEGORIES:

Information contained in the system is obtained from official agency employees or their supervisors, contract samplers, and FGIS field office personnel.

[FR Doc. 86-14654 Filed 6-27-86; 8:45 am]

BILLING CODE 3410-01-M

Food and Nutrition Service

Child Care Food Program; National Average Payment Rates, Day Care Home Food Service Payment Rates and Administrative Reimbursement Rates for Sponsors of Day Care Homes for the Period July 1, 1986-June 30, 1987

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the annual adjustments to the national average payment rates for meals served in centers, the food service payment rates for meals served in day care homes, and the administrative reimbursement rates for sponsors of day care homes to reflect changes in the Consumer Price Index. Further adjustments are made to these rates to reflect the higher costs of providing meals in the States of Alaska and Hawaii. The adjustments contained in this notice are required by the statutes and regulations governing the Child Care Food Program (CCFP).

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Lou Pastura, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291, and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. The action announced in the notice will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This notice is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V (48 FR 29112, June 24, 1983)).

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the *Paperwork Reduction Act of 1980* (44 U.S.C. 3587).

Definitions

The terms used in this notice shall have the meanings ascribed to them in the regulations governing the CCFP (7 CFR Part 226).

Background

Pursuant to sections 11 and 17 of the National School Lunch Act, section 4 of the Child Nutrition Act and §§ 226.4, 226.12 and 226.13 of the regulations governing the CCFP (7 CFR Part 226), notice is hereby given of the new payment rates for participating institutions. These rates shall be in effect during the period July 1, 1986-June 30, 1987.

As provided for under the National School Lunch Act and the Child Nutrition Act, all rates in the CCFP must be prescribed annually on July 1 to reflect changes in the Consumer Price Index (CPI) for the most recent 12-month period. In accordance with this mandate, the Department last adjusted the national average payment rates for centers, the food service payment rates for day care homes and the administrative reimbursement rates for sponsors of day care homes on July 9, 1985.

All States Except Alaska and Hawaii

Meals Served in Centers—Per Meal Payment Rates in Cents:	
Breakfasts:	
Paid	10.25
Free	70.75
Reduced	40.75
Lunches and Suppers:	
Paid	[1] 13.00
Free	[1] 135.50
Reduced	[1] 95.50
Supplements:	
Paid	3.50
Free	37.25
Reduced	18.50

All States Except Alaska and Hawaii—Continued

Meals Served in Day Care Homes—Per Meal Payment Rates in Cents:	
Breakfasts	59.25
Lunches and Suppers	116.00
Supplements	34.50
Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per month Rates in Dollars:	
Initial 50 day care homes	51
Next 150 day care homes	39
Next 800 day care homes	30
Additional day care homes	27

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the program. Notices announcing the value of commodities and cash-in-lieu of commodities are published separately in the **Federal Register.**

Pursuant to section 12(f) of the NSLA, the Department adjusts the payment rates for participating institutions in the States of Alaska and Hawaii. The new payment rates for Alaska are as follows:

Alaska

Alaska—Meals Served in Centers—Per Meal Payment Rates in Cents:	
Breakfasts:	
Paid	16.50
Free	114.50
Reduced	84.50
Lunches and Suppers:	
Paid	[1] 21.00
Free	[1] 219.50
Reduced	[1] 179.50
Supplements:	
Paid	5.50
Free	60.25
Reduced	30.25
Alaska—Meals Served in Day Care Homes—Per Meal Payment Rates in Cents:	
Breakfasts	95.75
Lunches and Suppers	188.00
Supplements	56.00
Alaska—Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Home—Per Home/Per Month Rates in Dollars:	
Initial 50 day care homes	83
Next 150 day care homes	63
Next 800 day care homes	49
Additional day care homes	43

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the program. Notices announcing the value of commodities and cash-in-lieu of commodities are published separately in the **Federal Register.**

The new payment rates for Hawaii are as follows:

Hawaii	
Hawaii—Meals Served in Centers—Per Meal Payment Rates in Cents:	
Breakfasts:	
Paid	12.00
Free	82.75
Reduced	52.75
Lunches and Suppers:	
Paid	[1] 15.25
Free	[1] 158.50
Reduced	[1] 118.50
Supplements:	
Paid	4.00
Free	43.50
Reduced	21.75
Hawaii—Meals Served in Day Care Homes—Per Meal Payment Rates in Cents:	
Breakfasts	69.25
Lunches and Suppers	135.75
Supplements	40.50
Hawaii—Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Home—Per Home/Per Month Rates in Dollars:	
Initial 50 day care homes	60
Next 150 day care homes	45
Next 800 day care homes	35
Additional day care homes	31

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the program. Notice announcing the value of commodities and cash-in-lieu of commodities are published separately in the **Federal Register.**

The changes in the national average payment rates and the food service payment rates for day care homes reflect a 4.0 percent increase during the 12-month period May 1985 to May 1986 (from 345.1 in May 1985 to 358.8 in May 1986) in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. The changes in the administrative reimbursement rates for sponsoring organizations of day care homes reflect a 1.6 percent increase during the 12-month period May 1985 to May 1986 (from 321.3 in May 1985 to 326.3 in May 1986) in the series for all items of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The total amount of payments available to each State agency for distribution to institutions participating in the program is based on the rates contained in this notice.

Authority: Sections 4, 8, 11, and 17 of the National School Lunch Act, as amended, (42 U.S.C. 1753, 1757, 1759(a), 1766) and section 4 of the Child Nutrition Act, as amended, (42 U.S.C. 1773).

(Catalog of Federal Domestic Assistance Program No. 10.558)

Dated: June 25, 1986.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 86-14697 Filed 6-27-86; 8:45 am]

BILLING CODE 3410-30-M

National School Lunch, Special Milk, and School Breakfast Programs National Average Payments/Maximum Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the annual adjustment to: (1) The "national average payments," the amount of money the Federal Government provides States for lunches and breakfasts served to children participating in the National School Lunch and School Breakfast Programs; (2) the "maximum reimbursement rates," the maximum per lunch rate from Federal funds that a State can provide a school food authority for lunches served to children participating in the school lunch program; and (3) the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participate in *only* the Special Milk Program for Children. The payments and rates are precribed on an annual basis each July. The annual payments and rates adjustment for the school lunch and school breakfast programs reflect changes in the food away from home series of the Consumer Price index for All Urban Consumers. The annual rate adjustment for milk reflects changes in the Producer Price Index for Fresh Processed Milk. These payments and rates are in effect from July 1, 1986 to June 30, 1987.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Lou Pastura, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756-3620.

SUPPLEMENTARY INFORMATION: This Notice has been reviewed under Executive Order 12291 and has been classified not major. This Notice will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for program participants, individual industries, Federal, State or local government agencies or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enteprises to compete with foreign-based enterprises in domestic or foreign markets.

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555 and No. 10.556 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Definitions

The terms used in this Notice shall have the meanings ascribed to them in the regulations govening the National School Lunch Program (7 CFR Part 210), the regulations for the Special Milk Program (7 CFR Part 215), the regulations for School Breakfast Program (7 CFR Part 220) and the regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

Background

Special Milk Program for Children

Pursuant to section 3 of the Child Nutrition Act, as amended (42 U.S.C. 1772), the Department announces the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in *only* the Special Milk Program for Children. This rate is adjusted annually to reflect changes in the Producer Price Index for Fresh Processed Milk.

For the period July 1, 1986 to June 30, 1987, the rate of reimbursement for a half-pint of milk served to a nonneedy child in a school or institution which participates in *only* the Special Milk Program is 9.25 cents. This reflects a decrease of 1.1 percent in the Producer Price Index for Fresh Processed Milk during the period May 1985 to May 1986.

As a reminder, schools or institutions with pricing programs, which elect to serve milk free to eligible children continue to receive the average cost of a half-pint of milk (the total cost of all milk purchased during the claim period divided by the total number of purchased half-pints) for each half-pint served to an eligible child.

National School Lunch and School Breakfast Programs

Pursuant to section 11 of the National School Lunch Act, as amended (42 U.S.C. 1759a), and section 4 of the Child Nutrition Act of 1966, as amended (42

U.S.C. 1773), the Department annually announces the adjustments to the National Average Payment Factors, and to the maximum Federal reimbursement rates for lunches served to children participating in the National School Lunch Program. Adjustments are prescribed each July 1, based on changes in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Lunch Payment Factors

Section 4 of the National School Lunch Act provides general cash for food assistance payments to States to assist schools in purchasing food. There are two section 4 National Average Payment Factors (NAPFs) for lunches served under the National School Lunch Program. The lower payment factor applies to lunches served in school food authorities in which less than 60 percent of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price. The higher payment factor applies to lunches served in school food authorities in which 60 percent or more of the lunches served during the second preceding school year were served free or at a reduced price.

To supplement these section 4 payments, Section 11 of the National School Lunch Act provides special cash assistance payments to aid schools in providing free and reduced price lunches. The section 11 NAPF for each reduced price lunch served is set at 40 cents less than the factor for each free lunch.

As authorized under section 8 and 11 of the National School Lunch Act, maximum reimbursement rates for each type of lunch are prescribed by the Department in this Notice. These maximum rates ensure equitable disbursement of Federal funds to school food authorities.

Breakfast Payment Factors

Section 4 of the Child Nutrition Act of 1966, as amended, establishes National Average Payment Factors for free, reduced price and paid breakfasts served under the School Breakfast Program and additional payments for schools determined to be in "severe need" because they serve a high percentage of needy children.

Revised Payments

The following specific section 4 and section 11 National Average Payment Factors and maximum payments are in effect through June 30, 1987. Due to a higher cost of living, the average payments and maximum reimbursements for Alaska and Hawaii are higher than those for all other States. The Virgin Islands, Puerto Rico and the Pacific Territories use the figures specified for the contiguous States.

National School Lunch Program Payments

Section 4 National Average Payment Factors

In school food authorities which served *less than 60 percent* free and reduced price lunches in School Year 1984–85, the payments are: *Contiguous States*—13.00 cents, maximum rate 21.00 cents; *Alaska*—21.00 cents, maximum rate 32.75 cents; *Hawaii*—15.25 cents, maximum rate 24.25 cents.

In school food authorities which served *60 percent or more* free and reduced price lunches in School Year 1984–85, payments are: *Contiguous States*—15.00 cents; maximum rates 21.00 cents; *Alaska*—23.00 cents, maximum rate 32.75 cents; *Hawaii*—17.25 cents, maximum rate 24.25 cents.

Section 11 National Average Payment Factors

Contiguous States—free lunch 122.50 cents, reduced price lunch 82.50 cents; *Alaska*—free lunch 198.50 cents, reduced price lunch 158.50 cents; *Hawaii*—free lunch 143.25 cents, reduced price lunch 103.25 cents.

School Breakfast Program Payments

For schools "not in severe need" the payments are: *Contiguous States*—free breakfast 70.75 cents, reduced price breakfast 40.75 cents, paid breakfast 10.25 cents; *Alaska*—free breakfast 114.50 cents, reduced price breakfast 84.50 cents, paid breakfast 16.50 cents; *Hawaii*—free breakfast 82.75 cents, reduced price breakfast 52.75 cents, paid breakfast 12.00 cents.

For schools in "severe need" the payments are: *Contiguous States*—free breakfast 85.00 cents, reduced price breakfast 55.00 cents, paid breakfast 10.25 cents; *Alaska*—free breakfast 137.75 cents, reduced price breakfast 107.75 cents, paid breakfast 16.50 cents; *Hawaii*—free breakfast 99.50 cents, reduced price breakfast 69.50 cents, paid breakfast 12.00 cents.

Payment Chart

The following chart illustrates: the lunch National Average Payment Factors with the sections 4 and 11 already combined to indicate the per meal amount; the maximum lunch reimbursement rates; the breakfast National Average Payment Factors including "severe need" schools; and the milk reimbursement rate. All amounts are expressed in dollars or fractions thereof. The payment factors and reimbursement rates used for the Virgin Islands, Puerto Rico and the Pacific Territories are those specified for the contiguous States.

SCHOOL PROGRAMS—MEAL AND MILK PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES

[Expressed in dollars or fractions thereof]

[Effective from July 1, 1986–June 30, 1987]

National school lunch program*		Less than 60 percent	60 percent or more	Maximum rate
Contiguous States	Paid	.1300	.1500	.2100
	Reduced price	.9550	.9750	1.1250
	Free	1.3550	1.3750	1.5250
Alaska	Paid	.2100	1.2300	.3275
	Reduced price	1.7950	1.8150	2.0575
	Free	2.1950	2.2150	2.4575
Hawaii	Paid	.1525	.1725	.2425
	Reduced price	1.1850	1.2050	1.3800
	Free	1.5850	1.6050	1.7800

School breakfast program		Non-severe need	Severe need
Contiguous States	Paid	.1025	.1025
	Reduced price	.4075	.5500
	Free	.7075	.8500
Alaska	Paid	.1650	.1650
	Reduced price	.8450	1.0775
	Free	1.1450	1.3775
Hawaii	Paid	.1200	.1200
	Reduced price	.5275	.6950
	Free	.8275	.9950

Special milk program	All milk	Paid milk	Free milk
Pricing programs without free option	$0.0925	NA	NA
Pricing programs with free option	NA	$.0925	(1)
Nonpricing programs	.0925	NA	NA

* Payments listed for Free & Reduced Price Lunches include both section 4 and 11 funds.
[1] Average cost ½ pint milk.

Authority: Sections 4, 8, and 11 of the National School Lunch Act, as amended, (42 U.S.C. 1753, 1757, 1759(a)) and sections 3 and 4(b) of the Child Nutrition Act, as amended, (42 U.S.C. 1772 and 42 U.S.C. 1773).

Dated: June 25, 1986.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 86-14698 Filed 6-27-86; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Designation of an Urbanized Area for Merced, CA

Based on the results of a special census conducted October 15, 1985, the Bureau of the Census is designating

Merced, California as an urbanized area under criteria published November 22, 1985 in the **Federal Register** (50 FR 48237). The Merced, California urbanized area has a population of 52,972.

The major geographic components of the urbanized area and the population of each appear below:

I. TITLE, TOTAL POPULATION, AND POPULATION INSIDE AND OUTSIDE OF CENTRAL CITY

Merced, CA urbanized area	Population
The area	52,972
Merced City	45,813
Outside central city	7,159

II. Major Geographic Components

Merced County (pt.)	52,972
Merced division (pt.)	52,972
Merced city	45,813

The Census Bureau will provide a copy of the special census map and an outline map showing the extent of the Merced, California urbanized area in response to requests that include payment of associated costs. Please address inquiries to Robert W. Marx, Chief, Geography Division, Bureau of the Census, Washington, DC 20233, (301) 763-5636.

Dated: June 25, 1986.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 86-14649 Filed 6-27-86; 8:45 am]

BILLING CODE 3510-07-M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit: Pacific Whale Foundation P254B

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name: Mr. Paul H. Forestell and Mr. Gregory D. Kaufman, Pacific Whale Foundation.

b. Address: P.O. Box 1033, Suite 303 Azeka Place, Kihei, Maui, Hawaii 96753.

2. Type of Permit: Scientific Research/ Scientific Purposes.

3. Name and Number of Marine Mammals: Megaptera novaeangliae, Humpback whale, 1,000.

4. Location of Activity: Near shore waters surrounding the seven major Hawaiian Islands.

5. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731-7415.

Dated: June 20, 1986.

Samuel W. McKeen,

Chief, Management and Budget Staff, National Marine Fisheries Service.

[FR Doc. 86-14695 Filed 6-27-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986 Proposed Addition

Correction

In FR Doc. 86-13982, beginning on page 22540, in the issue of Friday, June 20, 1986, make the following correction:

On page 22541, in the first column, the fourth line should read "6645-00-530-3342".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Organization of the Joint Chiefs of Staff (OJCS), Intelligence Center Pacific (IPAC); Privacy Act of 1974; New Record System

AGENCY: Organization of the Joint Chiefs of Staff (OJCS), Intelligence Center Pacific (IPAC).

ACTION: Notice of a new record system subject to the Privacy Act.

SUMMARY: The OJCS is adding a new record system to its existing inventory of record systems subject to the Privacy Act of 1974, as amended (5U.S.C. 552a).

DATE: This proposed action will be effective without further notice July 30, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Arnold Mabile, Colonel, USAF, Commanding Officer, Intelligence Center Pacific, Box 38, Camp H.M. Smith, HI 96891. Telephone: (808) 477-5203.

SUPPLEMENTARY INFORMATION: The Organization of the Joint Chiefs of Staff systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc. 85-10237 (50 FR 22604) May 29, 1985

The new record system identified as JOJCSOO5CRIS, entitled: Command Resources Information System (CRIS), is required to satisfy reporting and recordkeeping requirements identified in regulations and directives by the Military Services, the JCS civilian support offices and IPAC.

A new system report, as required by 5 U.S.C. 552a(o) of the Privacy Act was submitted on May 27, 1986, pursuant to paragaph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records about Individuals," dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 24, 1986.

JOJCS005CRIS

SYSTEM NAME:

Command Resources Information System (CRIS).

SYSTEM LOCATION:

Intelligence Center Pacific, Box 38, Camp H.M. Smith, Hawaii 96861.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD and DoD affiliated personnel, military and civilian including spouse, working in or assigned to the Intelligence Center Pacific (IPAC).

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information consisting of the individual's name, social security number, rank and grade, employment and work history data, home phone, address and name of spouse.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended; 5 U.S.C. 301 Departmental Regulations; and 44 U.S.C. 3101 Records Management by Federal Agencies.

PURPOSE:

This consolidated automated personnel system consisting of all information required to satisfy reporting and recordkeeping requirements identified in regulations and directives by the Military Services, the JCS civilian support offices and IPAC is used by management personnel of the Consolidated Civilian Personnel (CCPO) and various military personnel offices to satisfy reporting requirements. It is also used for internal recordkeeping requirements and policies such as award nominations, phone listings, alert/recall rosters, status and efficiency reports, training, budgetary and fiscal reports, and to provide for verification and update of previously provided information and summary descriptive statistical or analytical management information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the organization of the Joint Chiefs of Staff.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; computer floppy and hard disks in secure facility.

RETRIEVABILITY:

Paper file records retrieved by name. Computer records retrieved by name, SSN, organizational location, billet number.

SAFEGUARDS:

Paper records are stored in locked horizontal and vertical cabinets in a limited access area of the IPAC. The computer hardware, disks, and other materials are secured in locked cabinets and desks in a controlled and guarded area. All records are located in a Secure Compartmented Information Facility (SCIF) and adjacent secure work areas. Computer access is via controlled dial in and is password controlled. Passwords are changed semiannually or upon the departure of any person knowing the password. The automated system is operated by IPAC, and only personnel with an official need to know are given the password and user identification information needed to access the computer system. While the file is primarily indexed by social security number (SSN) and name, any combination of fields and data can be used to select individual records.

RETENTION AND DISPOSAL:

Paper records are retained until transferred to computer data bases and then destroyed. Computer printouts are destroyed after use as working papers. Magnetic disks are retained until they are no longer required for reference, then erased.

SYSTEM MANAGER AND ADDRESS:

Arnold Mabile, Colonel, USAF, Commanding Officer, Intelligence Center Pacific, Box 38, Camp H.M. Smith, HI 96861. Telephone (808) 477-5203.

NOTIFICATION PROCEDURE:

Information may be obtained from the system manager.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the system manager.

CONTESTING RECORD PROCEDURES:

Information on contesting record contents and appealing initial determinations may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

IPAC records, information from CCPO and military personnel offices, and from voluntary submittals by individuals assigned to or working in IPAC.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86-14668 Filed 6-27-86; 8:45 am]
BILLING CODE 3810-01-M

Privacy Act of 1974; Computer Matching Program; Department of Defense (DoD)/Department of Housing and Urban Development (HUD)

AGENCY: Defense Manpower Data Center (DMDC), Defense Logistics Agency (DLA), DoD.

ACTION: Notice of a new ongoing computer matching program between the Department of Defense (DoD) and the Department of Housing and Urban Development (HUD).

SUMMARY: DoD proposes a new ongoing computer matching program by matching DoD records with HUD records of delinquent debtors under HUD's Property Improvement and Manufactured (Mobile) Home Loan Program. The purpose of the match is to determine which debtors are current DoD employees so as to allow HUD to collect the debts under the salary offset provisions of the Debt Collection Act of 1982.

DATES: The proposed action will be effective without further notice July 30, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mr. Robert J. Brandewie, Deputy Director, Defense Manpower Data Center, 550 Camino El Estero, Suite 200, Monterey, California 93940-3231. Telephone: (408) 375-4131, Autovon: 878-2951.

SUPPLEMENTARY INFORMATION: This computer matching program is being conducted to identify individuals indebted to HUD who are employed by the DoD and to collect the debts owed to HUD under the provisions of the Debt Collection Act of 1982. Set forth below is the information required by the paragraph 5.f. of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656 May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget on June 19, 1986, pursuant to Appendix I to OMB Circular No. A-130—"Federal Agency Responsibilities for Maintaining Records About Individuals" dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 24, 1986.

Report of a New Ongoing Computer Matching Program Between the Department of Defense (DOD) and the Department of Housing and Urban Development (HUD)

a. *Authority:* The legal authority under which the computer match is being conducted is 10 U.S.C. 136 and 127; Title I, Sec. 2, National Housing Act, 12 U.S.C. 1703; the Federal Claims Collection Act of 1966 (Pub. L. 89–508) 31 U.S.C. 952(d); the Debt Collection Act of 1982 (Pub. L. 97–365) 5 U.S.C. 5514, 31 U.S.C. 3711 and 3716–3718, (32 CFR Part 90, Collection of Indebtedness Due the United States); 5 U.S.C. 552a and OMB Revised Supplemental Guidance for Conducting Matching Programs (47 FR 21656, May 19, 1982).

b. *Program Description:* The computer matching program will identify DoD employees who have Title I defaulted loans for the purpose of discharging the debts owed the U.S. Government through salary and benefit offsets.

HUD, as the source agency, will submit the social security numbers and names of their Title I loan defaulters to the DoD to identify which defaulters are current DoD employees (hits). DoD, as the matching agency, will supply HUD with the most recent employment or home address available on the hits so as to permit HUD to contact the DoD debtor to arrange repayment. If adequate repayment arrangement cannot be made, HUD will request DoD to offset salary or benefit payments under the provisions of the Debt Collection Act of 1982 until the debt is liquidated.

c. *Records to be Matched:* The systems of records subject to the Privacy Act of 1974, as amended, to be matched are as follows:

HUD Record Sysem (Source Agency)

(1) Sysem Identification: HUD/DEPT 28

System Name: Property Improvement and Manufactured (mobile) Home Loans

Federal Register Citation: 49 FR 14192, April 10, 1984

DoD Record Systems (Matching Agency)

(2) System Identification: S322.10 DLA–LZ

Sysem Name: Defense Manpower Data Center Data Base

Federal Register Citation: 50 FR 51899, December 20, 1985

(3) System Identification: S322.53 DLA–LZ

System Name: Defense Debt Collection Data Base

Federal Register Citation: 50 FR 22921, May 29, 1985

d. *Period of the Match:* This ongoing matching program will begin as soon as possible after this public notice becomes effective as set forth under "DATE" in the preamble of this notice and will be conducted no more than annually thereafter.

e. *Security:* Manual files are kept in lockable cabinets or rooms; automated records are maintained in secured areas. Access to either type of record is limited to authorized personnel only.

f. *Retention and Disposition of Records:* Tapes received by the DoD will be returned to HUD upon successful completion of the match. "Hit" records will be used by HUD to collect the debt and will be disposed of upon completion of the debt collection action. Information on "non hit" records will not be used for any purpose. DoD agrees that the information provided by HUD will not be used or disclosed without the specific permission of HUD and that files concerning "non hit" individuals will not be used for any purpose unless agreed to by HUD.

[FR Doc. 86–14669 Filed 6–27–86; 8:45 am]

BILLING CODE 3810–01–M

Privacy Act of 1974; New Matching Program; Department of Defense (DoD)/Veterans Administration (VA)

AGENCY: Defense Manpower Data Center (DMDC), Defense Logistics Agency (DLA), DOD.

ACTION: Notice of a new ongoing matching program between the Department of Defense and Veterans Administration.

SUMMARY: DoD proposes a new ongoing computer matching program by matching DoD records of active duty military, reservists, civilian employees, and military retirees with VA files of individuals indebted the the VA. The purpose of the match is to identify records of veterans and their dependents who are indebted to the Federal Government under the authority of the Debt Collection Act of 1982, Pub. L. 97–365 utilizing the Matching Guidelines established by the Office of Management and Budget.

DATE: The proposed action will be effective without further notice July 30, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mr. Robert J. Brandewie, Deputy Director, Defense Manpower Data Center, 550 Camino El Estero, Suite 200, Monterey, California 93940–3231. Telephone: (408) 375–4131, Autovon: 878–2951.

SUPPLEMENTARY INFORMATION: This computer match will be performed by DoD after VA supplies records of individuals indebted to the Federal Government. VA as the source agency will be responsible for reviewing the information supplied by DoD and for action to recover the outstanding debt(s) by salary or administrative offset when other collection actions have been pursued and have been unsatisfactory. Set forth below is the information required by the paragraph 5.f. of the Revised Supplemental Guidance for Conducting Computrized Matching Programs issued by the Office of Management and Budget (47 FR 21656 May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget on June 19, 1986, pursuant to Appendix I to OMB Circular No. A–130—"Federal Agency Responsibilities for Maintainig Records About Individuals" dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 24, 1986.

Report of a New Ongoing Matching Program; Department of Defense/ Veterans Administration

a. *Authority:* The legal authority under which the computer match is being conducted is 10 U.S.C. 136, 38 U.S.C. 3104(C), Debt Collection Act of 1982 (Pub. L. 97–365), 5 U.S.C. 5514, 31 U.S.C. 3711 and 3716–3718, 5 U.S.C. 552a and OMB Revised Supplemental Guidance for Conducting Matching Programs, 47 FR 21656 dated May 19, 1982.

b. *Program Description:* This ongoing matching program will identify veterans and their dependents who are indebted to the Federal Government.

The Veterans Administration (VA), as the source agency, will submit to the Department of Defense (DoD), the matching agency, an extract (VA debtor file) of its compensation, pension, education and rehabilitation records, Loan Guaranty Home, Condominium and Manufactured Home Loan Application records, Specially Adapted Housing Applicant reords and Vendee Loan Applicant records contraining identifying data such as name, social security number, date of birth and the amount of the debt owed by the individual. DoD will perform a match by computer at the Defense Manpower Data Center (DMDC) located at

Monterery, California. The match will be performed using DoD active duty, reservists, civilian and military retiree records as supplied by the military service centers.

Records matching on all nine digits of the social security number (hits) will be returned to the VA and will contain data such as the individual's name, date of birth and address. The VA will research the data to assure accuracy of the match and that the date of birth and names match. Nor further action will be taken if the individuals do not fall within this criteria. If the matched individuals are determined to be the same, then the VA will so notify them and attempt to collect the debt in accordance with the Debt Collection of 1982 (Pub. L. 97-365) by salary or administration offset, when other collection actions have been pursued and have been unsatisfactory.

c. *Records to be Matched:* The systems of records subject to the Privacy Act to be matched are as follows:

VA Record Systems (Source Agency)

(1) System Identification: 58 VA 21/22/28

System Name: Compensation, Pension, Education and Rehabilitation Records—VA

Federal Register Citation: 48 FR 52799 November 29, 1983

(2) System Identification: 55 VA 26

System Name: Loan Guaranty Home, Condominium and Manufactured Home Loan Application Records, Specially Adapted Housing Applicant Records and Vendee Loan Applicant Records—VA **Federal Register** Citation: 48 FR 49965 October 28, 1983

DoD Record System (Matching Agency)

(3) System Identification: S332.10 DLA-LZ

System Name: Defense Manpower Data Center Data Base

Federal Register Citation: 50 FR 51899 December 20, 1985

d. *Period of the Match:* This matching program will begin as soon as possible after this public notice becomes effective as set forth under "DATE" in the preamble of this notice and will be conducted periodically thereafter.

e. *Security:* Hard copy files will be clearly marked as Privacy Act controlled data and will be stored in areas restricted to employees. Access to the files will be for official use only on a need-to-know basis. Computer records will be stored either on tape or disk at computer centers with unescorted access generally limited to computer personnel, custodial personnel and security guards. Access to data by remote terminal requires entry of system security codes.

f. *Retention and Disposition of Records:* The extract file received by the DoD from the VA will be used and accessed only to match the records agreed to; it will not be used to extract information concerning "non-hit" individuals for any purpose and will not be duplicated or disseminated within or outside the DoD, the matching agency, unless authorized in writing by the VA, the source agency. The agencies involved will use the data supplied in a manner prescribed by law and will maintain proper safeguards to prevent unauthorized release or use of all data supplied. Records relating to "hits" will be retained by the VA until the completion of any necessary administrative collection or legal action and will then be disposed of in accordance with approved records control schedules and/or approved disposition authority from the Archivist of the Untied States.

[FR Doc. 86-14670 Filed 6-27-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 19, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Appropriate Air Force Technology Efforts to Complement the SDI Program will meet at Whidbey Island NAS, Oak Harbor, Washington, on 28 July to 6 August 1986, from 8:00 am to 5:00 pm daily, and on 7 August, from 8:00 am to 12:00 pm.

The purpose of the meeting is to complete the committee report and prepare an outbriefing.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-14664 Filed 6-27-86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Privacy Act of 1974; New Record System

AGENCY: Department of the Army (DoA), DoD.

ACTION: Notice of a new record system.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Army's proposed new record system subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a) by adding a new system of records identified as A0134.22a DASG, entitled: Medical Research Volunteer Registry.

DATE: This proposed action will be effective, without further notice July 30, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Written comments may be submitted to the System Manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Edgington, HQDA-DAIM-FAR-RA, Room 1146, 2461 Eisenhower Ave., Hoffman Bldg. #1, Alexandria, VA 22331-0301. Telephone: (202) 325-6163, Autovon: 221-6163.

SUPPLEMENTARY INFORMATION: The Army's systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows: FR Doc. 85-10237 (50 FR 22090) May 29, 1985. A new system report as required by 5 U.S.C. 552a(o) of the Privacy Act of 1974 was submitted on June 19, 1986, pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 24, 1986.

A01304.22aDASG

SYSTEM NAME:

Medical Research Volunteer Registry.

SYSTEM LOCATION:

Primary.

U.S. Army Medical Research and Development Command, Fort Detrick, Frederick, MD 21701-5012

Alternates.

Letterman Army Institute of Research, Presidio of San Francisco, CA 94129-6800

Walter Reed Army Institute of Research, Washington, DC 20307-5100

U.S. Aeromedical Research Laboratory, Fort Rucker, AL 36362-5000

U.S. Army Institute of Dental Research, Washington, DC 20307-5300

U.S. Army Institute of Surgical Research, Fort Sam Houston, TX 78234-6200

U.S. Army Institute of Surgical Research and Development Laboratory, Fort Detrick, Frederick, MD 21701-5010

U.S. Army Medical Research Institute of Chemical Defense, Aberdeen Proving Grounds, MD 21010–5425
U.S. Army Medical Research Institute of Infectious Defense, Fort Detrick, Frederick, MD 21701–5011
U.S. Army Research Institute of Environmental Medicine, Natick, MA 01760–5007

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records of military members, civilian employees, and non-DOD civilian volunteers participating in current and future research sponsored by the U.S. Army Medical Research and Development Command.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Account Number, and other such information as necessary to locate the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301; 10 USC 1071–1090; 44 USC 3101; E.O. 9397.

PURPOSES:

To assure that the U.S. Army Medical Research and Development Command (USAMRDC) can contact individuals who participated in research conducted/sponsored by the Command in order to provide them with newly acquired information, which may have an impact on their health. To answer inquiries concerning an individual's participation in research sponsored/conducted by USAMRDC. To facilitate retrospective medical and/or scientific evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the Veteran's Administration to assist in making determinations relative to claims for service-connected disabilities; and other such benefits. See also the "blanket routine uses" set forth at the beginning of the Army's listing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

a. Laboratory-conducted research. Computer tapes are filed in the laboratory.

b. Contractor-conducted research. Upon completion of research, files are turned over to the U.S. Army Medical Research and Development Command. Computer tapes are filed at the U.S. Army Medical Research and Development Command.

RETRIEVABILITY:

By SSN and name.

SAFEGUARDS:

Computerized records are accessed by the custodian of the records system, and by persons responsible for servicing the records system in the performance of their duties. Computer equipment and files are located in separate, secured area.

RETENTION AND DISPOSAL:

Records are destroyed when no longer needed for current operations.

SYSTEM MANAGERS(S) AND ADDRESS:

Headquarters, Department of the Army, Office of The Surgeon General, ATTN: DASG–RDZ (SGRD–HR), 5111 Leesburg Pike, Falls Church, VA 22041–3258.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether this system of records contains information about them should submit a written request to the system manager, furnishing full name, SSN, military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records in this system pertaining to them should submit a written request as indicated in "Notification Procedure," and furnish information required therein.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents are contained in AR 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information is obtained from medical research volunteers, and other medical research personnel assigned to the U.S. Army Medical Research and Development Command.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–14667 Filed 6–27–86; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 19474]

Designation of Certain Lands as Public Domain Within the U.S. Navy Boardman Bombing Range; Oregon

Correction

In FR Doc. 86–13232 appearing on page 21394 in the issue of Thursday, June 12, 1986, make the following corrections:

1. In the second column, in the land description, third line, insert "SW¼" after "S½N½,".

2. In the twelfth line, "Sec." should read "Secs.". In the fourteenth line, "Sec." should read "Secs." and the word "lots" should be removed.

3. In the eighteenth line, "Sec." should read "Secs." and "24" should read "25".

4. In the twentieth line, "Sec." should read "Secs.".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6472–001]

Cogeneration, Inc.; Surrender of Exemption

June 23, 1986.

Take notice that Cogeneration, Inc., exemptee for the King Hill Project No. 6472, has requested that its exemption be terminated because the project's economic analysis indicates construction and operation of the project is not feasible at this time. The exemption for Project No. 6472 was issued November 16, 1982. The project would have been located on Basin Lateral near Glenn's Ferry in Elmer County, Idaho. The exemptee has stated that no ground disturbing activity has taken place; therefore, no conditions are needed concerning the restoration of lands.

The exemptee filed the request on May 27, 1986, and the exemption for Project No. 6472 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as

described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-14643 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-35-000]

Colorado Oil and Gas Conservation Commission and John P. Lockridge Operator Inc.; Protest to Determinations by a Jurisdictional Agency, Alternative Request To Reopen, and Motion To Intervene

June 23, 1986.

On May 20, 1986, Northwest Central Pipeline Corporation (Northwest Central) filed to protest (or alternatively, to reopen) certain tight formation well category determinations under the Natural Gas Policy Act (NGPA) [1] made by the Colorado Oil and Gas Conservation Commission (Colorado).[2] Northwest Central also moved to intervene in this proceeding under the Commission's Rule 214.[3]

Northwest Central states that Colorado has made an NGPA section 107(c)(5) determination for each of the wells at issue based on underlying information that each well qualifies as an NGPA section 103 category well and is located in a tight formation area.[4] Under the Commission's regulations, one of the definitional prerequisites for qualification as new tight formation gas is that the gas is new natural gas as defined in NGPA section 102(c) or is gas produced through a new onshore production well as defined in NGPA section 103(c).

Northwest Central states that while each of the subject wells qualifies for both the section 103(c) and section 102(c) categories, only the facts to were included in the applications for section 107(c)(5) determinations. Northwest Central states further that section 121 of the NGPA as implemented by the Commission in Order No. 406 [5] mandates that section 102(c) gas and deep section 103(c) gas (*i.e.*, below 5,000 feet) are deregulated effective January 1, 1985.

Northwest Central avers that all of the gas produced from the wells which are the subject of its protest qualifies as section 102(c) gas, but not as *deep* section 103(c) gas, since the well completion depths are less than 5,000 feet. Northwest Central has itself attemped to obtain the requisite section 102(c) determinations from Colorado as to these and other similarly situated wells, but Colorado has denied Northwest Central standing to file such applications. Northwest Central has protested what it terms Colorado's refusal to confirm the deregulated status of the subject gas.

Northwest Central specifically requests that it be permitted to intervene and that the Commission find that the subject determinations are not supported by substantial evidence and should be reversed or remanded by the Commission. Alternatively, Northwest Central requests that the Commission reopen the subject determinations and issue an order reversing or remanding said determinations.

Any person desiring to be heard or to protest Northwest Central's petition should file, within 30 days after this notice is published in the **Federal Register**, a motion to intervene or a protest under Rule 214 or 211 of the Commission's Rules of Practice and Procedure.[6] Filings should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-14640 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

[1] 15 U.S.C. 3301-3432 (1982).

[2] Northwest Central protested the following determinations pursuant to the Commission's Regulations at 18 CFR 275.203 and 275.204 (1985):

Well name	JD No.	JA Dkt.
Devlin #13-33	86-19537	85-472
Devlin #41-5	86-19538	85-474
Devlin #41-19	86-19539	85-471
Devlin #41-28	86-19540	85-469
Moellenberg #43-6	86-19541	85-473
Pinkard #14-17	86-19542	85-470

[3] 18 CFR 385.214 (1985).

[4] The Niobrara Formation in Colorado, Docket No. RM79-76 (Colorado-3). *See* 18 CFR 271.703(d)(20) (1985).

[5] Deregulation and other pricing changes on January 1, 1985, under the Natural Gas Policy Act, 49 FR 46874 (Nov. 29, 1984), *reh'g denied*, 49 FR 50637 (Dec. 31, 1984).

[6] 18 CFR 385.214 or 385.211 (1985).

[Docket No. CI86-514-000]

Mobil Oil Exploration & Producing Southeast Inc.; Application

June 23, 1986.

Take notice that on June 16, 1986, Mobil Oil Exploration & Producing Southeast Inc. ("MOEPSI") filed an application for limited-term blanket authorization to sell on the open market natural gas produced from MOEPSI's interest in Eugene Island 330 ("E.I. 330"), offshore Louisiana. MOEPSI also requests an order granting pregranted abandonment of any sales made pursuant to the authority above. MOEPSI additionally requests waiver of any filing and reporting requirements which may be inconsistent with the authority sought under the above application.

In its application, MOEPSI alleges that it has been unable to enter into any long-term contracts for the sale of natural gas from its interest in E.I. 330. MOEPSI claims that production and sales by its working interest owners in E.I. 330 and from off-lease sources threaten MOEPSI with losses due to drainage. Because of the economic hardship associated with such drainage, MOEPSI is requesting temporary authority pursuant to 18 CFR 157.28 to conduct the activities requested in its application.

MOEPSI specifically requests authority, effective immediately, to sell up to five million cubic feet per day of natural gas produced from its interest in E.I. 330 for a limited-term of two-years, without geographic limitations. MOEPSI states that all the gas in question qualifies for above—section 109 pricing under the Natural Gas Policy Act of 1978, but would be sold for resale in the interstate spot-market at competitive, market-sensitive prices, not to exceed the applicable maximum lawful price. Waiver of filing and reporting requirements inconsistent with this limited-term authority and pre-granted abandonment is sought in order to make sales possible under said authority. MOEPSI claims the application is consistent with prior precedents, with the Commission's goals as enunciated in Order No. 436 *et al.*, and is in the public interest.

Any person desiring to be heard or to make protest with reference to said application should on or before July 8, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

385.211–385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless Mobil is otherwise advised, it will be unnecessary for Mobil to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–14644 filed 6–27–86; 8:45 am]

BILLING CODE 6717–01–M

Mojave Pipeline Co. et al.; Meeting and Request for Comments on Environmental Issues

In the matter of Mojave Pipeline Company, Kern River Gas Transmission Company, El Dorado Interstate Transmission Company, Transwestern Pipeline Company, El Paso Natural Gas Company, Northwest Pipeline Company; Docket Nos. CP85–437–000, CP85–552–000, CP86–205–000, CP86–212–000, CP86–197–000, CP85–625–000. Pipeline projects to supply natural gas for enhanced oil recovery in California: supplemental notice of public scoping meeting and request for comments on the scope of environmental issues associated with additional facilities.

June 25, 1986.

Introduction

Applications for approval of the above projects have been filed with the Federal Energy Regulatory Commission (FERC) pursuant to section 7(c) of the Natural Gas Act. The first three projects, the Mojave Pipeline Project (Mojave), the Kern River Project (Kern River), and the El Dorado Project (El Dorado), are competing to transport natural gas from various sources outside of California to the Bakersfield, California area for use in enhanced oil recovery (EOR) and related cogeneration projects. In each case, producers of crude oil in the San Joaquin Valley would use the natural gas as boiler fuel to create steam whch would be injected into the oil fields to produce crude oil not recoverable by primary recovery methods. Some of the steam would also be used to generate electricity. The producers currently use crude oil and a limited amount of natural gas for steam generation. These proposed projects would allow substitution of natural gas for the crude oil now used, and may allow entry into the market of producers who presently cannot get authorization to burn oil due to air pollution restrictions. The remaining applications by El Paso Natural Gas Company (El Paso), Transwestern Pipeline Company (Transwestern), and Northwest Pipeline Company (Northwest) involve facilities to deliver gas to the competitors.[1]

On August 23, 1985, December 10, 1985, and May 12, 1986, the FERC staff issued notices of its determination that approval of any of the competing projects would be a major Federal action significantly affecting the quality of the human environment, and that it intended to prepare a draft environmental impact statement (DEIS). (See 50 FR 34174, 50941, and 51 FR 18357.) These notices also requested comments on the scope of issues to be addressed, and indicated that a joint environmental impact statement/environmental impact report (EIS/EIR) would be prepared by the FERC (as the lead Federal agency) and the California State Lands Commission (SLC). This EIS/EIR Will satisfy the requirements of both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The DEIS, currently under preparation, will describe the environmental impact of each project identified above as well as an additional project which is the subject of this supplemental notice.

Notice of Additional Facility Requirements

Review of El Paso's proposal indicates that significant new and previously unidentified pipeline facilities would be required on Northwest's systems in order to implement El Paso's proposal to receive up to 200 MMcfd of natural gas from Northwest at Ignacio, Colorado. This supplemental notice is therefore being issued to (1) identify these facilities and solicit public comments on the scope of the environmental issues which need to be addressed in the overall EIS/EIR concerning the EOR projects and (2) identify an additional public scoping meeting to be held concerning the necessary facilities on Northwest's system.

Northwest's Expansion Project

Northwest already provides El Paso with substantial volumes of natural gas at the Ignacio interconnection. However, under El Paso's proposal, Northwest woud increase deliveries to El Paso at Ignacio by up to 200 MMcfd. To accomplish this, Northwest asserts that it would be required to reinforce its mainline system between Opal and Ignacio by construction of approximately 163 miles of 24-inch-diameter pipeline loop in six sections and 32,000 horsepower of compression (25,290 site-rated horsepower) divided between two new and two existing compressor stations. Construction would occur in Lincoln and Sweetwater Counties, Wyoming; Rio Blanco, Garfield, Mesa, Dolores, Montezuma, and La Plata Counties, Colorado; and Grand and San Juan Counties, Utah. Facility costs are estimated at $130,010,000.

It should be emphasized that Northwest has *not* filed a certificate application proposing construction and operation of these facilities. Because the gas volumes reguested by El Paso would support one of two proposals in direct competition with the Kern River Project (of which Northwest is a partner via its parent), no filing from Northwest is anticipated unless one of the competitive proposals is approved. Nevertheless, to fully assess the environmental ramifications of El Paso's application, analysis of the necessary Northwest facilities is required.

In response to a staff data request, Northwest identified the specific facility requirements necessary to provide an additional 200 MMcfd to El Paso at Ignacio. The FERC staff has modified the pipeline loop locations identified by Northwest in order to avoid construction in Douglas Pass, Garfield County, Colorado, and in Arches National Park in Utah. All pipeline sections would be 24-inch-diameter loop. Table 1 identifies these facilities; the map included as attachment 1 shows their geographical extent.*

In the absence of a formal filing, details concerning Northwest's looping were taken from previous Northwest applications, including a 1982 proposal to loop similar portions of its mainline. Construction would be expected to disturb approximately 45 additional feet along Northwest's existing 50-foot-wide right-of-way. On this basis, the looping would involve some 890 acres of land. Following construction, the permanent right-of-way would likely revert to a total 75-foot width. Additional land, on the order of 2 acres per crossing, would be required to install the pipe across major streams, railroads, and paved highways. Because Northwest would be looping portions of its existing system, establishment of new staging areas, maintenance bases, or communications facilities are not anticipated. New compressor stations in Grand County,

[1] Specifically, Northwest's application in Docket No. CP85–625–000 proposes construction and operation of a pipeline tap to interconnect its mainline system with Kern River's proposed pipeline near Opal, Wyoming.

* The attachments to this notice are not being published in the **Federal Register**, but are available from the Commission's Division of Public Reference.

Utah, and Dolores County, Colorado, would likely require a nominal 20 acres for each facility; compressor upgrading at the Green River Station and expansion at Ignacio could be accommodated by the existing sites. Minor surface facilities expected to be associated with the looping would include block valves, drip assemblies, and pig launchers and receivers, all of which would generally be within the permanent right-of-way.[2]

The staff estimates that the described expansion of Northwest's system would require between 12 and 15 months to become operational. While construction activities at any one place along the route would likely require 2 to 4 weeks, the trench itself would normally be open for only a few days. Construction of compressor stations typically requires about six months. Because construction procedures for interstate natural gas pipeline facilities are relatively standard, interested readers are referred to the previous notices of August 23 and December 10, 1985, for an overview of typical construction practices. Those notices also provide background information on the procedures being followed in the environmental analysis.

TABLE 1.—NORTHWEST EXPANSION FACILITY LOCATION [3]

State and county	Miles of pipe	Facility name (total length in miles, site-rated compression in horsepower)
Wyoming:		
Lincoln	17.5	Muddy Creek Loop (34.6 miles)
Sweetwater	17.1	Do.
Do		Green River Compressor Station (existing) (upgrade by 1,000 horsepower)
Do	4.1	Green River Loop (4.1 miles)
Colorado:		
Rio Blanco	29.1	Rangely Loop "A" (30.8 miles)
Garfield	1.7	Do.
Do	14.7	Rangely Loop "B" (16.2 miles)
Mesa	1.5	Do.
Dolores		Cahone Compressor Station (new) (8,960 horsepower)
Do	1.5	Cahone Loop (16.3 miles)
Montezuma	14.8	Do.
La Plata		Ignacio Compressor Station (existing) (add 6,000 horsepower)
Utah:		
Grand		Cisco Compressor Station (new) (8,330 horsepower)
Do	25.7	Cisco Loop (25.7 miles)
Do	4.0	Moab Loop (34.8 miles)
San Juan	30.8	Do.

[3] Significant facility additions are listed. Piping modifications would also be necessary within the following existing compressor station sites: Ignacio, Rangely (Rio Blanco County, Colorado), and Vernal (Uintah County, Utah).

Cooperating Agencies

A number of Federal and state agencies are participating in the preparation of the EOR-related EIS/EIR; therefore, it is unlikely that the Northwest Expansion Project will involve any additional Federal agencies. However, although the State of Colorado has been involved (by virtue of El Paso's proposal to modify its Bondad [Colorado] Compressor Station), additional Colorado state agencies may now desire more direct involvement. Any agencies desiring cooperating agency status based on this supplemental notice should send a request describing how they would like to be involved to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC. 20426.

The request should reference Docket No. CP85–437–000, *et al.*, and should be received within 30 days of the date of this supplemental notice. Additional information about these projects and the FERC's involvement in the EIS/EIR, as well as maps of limited areas of the Northwest looping may be obtained from Mr. Robert K. Arvedlund, Environmental Evaluation Branch, OPPR, at the above address, or may be requested by telephone: (202) 357–9043. Mr. Arvedlund should be sent a copy of any request for cooperating agency status.

Cooperating agencies are encouraged to participate in the EIS process and to provide information to the lead agencies. Cooperating agencies are also welcome to suggest format and content modifications to facilitate ultimate adoption of the EIS/EIR; however, the lead agency will decide what modifications will be adopted in light of production constraints.

Information concerning the involvement of the SLC in the EIS/EIR may be obtained from Ms. Mary Griggs, 1807–13th Street, Sacramento, California 95814, telephone (916) 322–0354.

Comment and Scoping Procedure

A copy of this supplemental notice has been distributed to Federal, state, and local agencies, public interest groups, and parties to the FERC and any SLC procedures. Interested readers of this notice are encouraged to comment on anticipated environmental concerns associated with the Northwest looping. Comments will be used by the FERC and the SLC to identify the issues which require indepth environmental analysis.

Comments on the scope of the EIS/EIR should be addressed to the Secretary, Federal Energy Regulatory Commission. Recommendations that the EIS/EIR address specific issues should be supported with a detailed explanation of the need to consider such issues. Written comments should be submitted within 30 days of the date of this supplemental notice and reference Docket No. CP85–437–000, *et al.* Mr. Arvedlund should be sent a copy of any comments.

Additional Public Scoping

Scoping meetings on the Mojave, Kern River, El Dorado, El Paso, Transwestern, and Northwestern applications were noticed on January 27, 1986 (51 FR 3402), and subsequently held in Albuquerque, New Mexico; Flagstaff, Arizona; Heber City, Utah, Nevada; and Bakersfield, California. Additional meetings were held at the tribal headquarters of the Navajo Nation and the Laguna Pueblo.

Given the extent of the facilities which have been identified as necessary on Northwest's system to support the El Paso proposal, the FERC staff feels that an additional public scoping meeting is necessary. Therefore, notice is hereby given that a public meeting has been scheduled for 7:00 p.m. on Thursday, July 17, 1986, at the Grand Junction District Office of the Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado. This meeting will be conducted jointly by the FERC and SLC staffs for the purposes of providing information to and receiving input from the purposes of providing information to and receiving input from state and local government representatives and the public concerning the scope and range of environmental issues and concerns that need to be addressed in the impact analysis. While an overview of the EOR projects will be presented, the meeting will focus on issues related to the Northwest Expansion Project. As was stated in the previous notices concerning public scoping meetings, Federal agencies are expected to use formal channels for input into the analysis and not use scoping meetings (which are primarily held to insure public involvement) for this purpose.

Mailing Lists

Organizations and individuals receiving this supplemental notice have been selected to ensure public awarness of these projects and public involvement in the review process under both NEPA and CEQA. The EIS/EIR will be sent automatically to addresses on the FERC's official service list for these projects, the SLC's mailing list, and to the appropriate Federal agencies, and state clearinghouses in states where each project is located. However, to reduce printing and mailing costs and related logistical problems, the EIS/EIR will only be distributed to those other organizations, local agencies and individuals who return attachment 2, preferably within 90 days of the date of this notice. Those who returned the

[2] A "pig" is a pipeline term denoting one of several devices used to clean, coat, inspect, etc., the interior of the buried pipe. The pig is forced through the pipe by gas pressure.

attachment to either the August 23 or December 10, 1985 notice need not return the new attachment.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-14637 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-503-000]

SNG Trading Inc.; Application

June 23, 1986.

Take notice that on June 10, 1986, SNG Trading Inc. (Trading), P.O. Box 2563, Birmingham, Alabama 35202, filed in this proceeding an application pursuant to sections 4 and 7 of the Natural Gas Act ("NGA") and Part 157 of the Commission's Regulations, requesting a blanket certificate of public convenience and necessity, authorizing (1) Trading to make sales for resale in interstate commerce of gas subject to NGA jurisdiction, without market restriction; (2) authorizing sales of natural gas by others to Trading for resale in interstate commerce, without market restriction; (3) authorizing sales for resale of natural gas by others through Trading acting as their agent, without market restriction; and (4) authorizing the pre-granted abandonment of all sales for resale for which sales certificate authority is requested.

Trading states that the purpose of its application is to enable Trading to resell in the spot market natural gas which it purchases from producers who have received abandonment authorization from the Commission in separate proceedings, including those authorizations granted pursuant to the Commission's expedited abandonment procedures adopted in Docket No. RM85-1-000, and will permit Trading to act as agent for such producers in the sale for resale of their gas in the spot market. Trading also states that to the extent that the abandonment authority granted to a producer in a separate proceeding is not a permanent release of reserves or is restricted in some other way, the sales and abandonment authorizations requested would likewise be restricted. Trading requests that, in any order approving its application, the Commission expressly find that with respect to Trading and its operations, the Commission's NGA jurisdiction is limited to the specific non-exempt activities for which Trading is seeking authorization.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 8, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-14645 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-545-000 et al.]

New England Power Pool et al; Electric Rate and Corporate Regulations Filings

Take notice that the following filings have been made with the Commission:

1. New England Power Pool

[Docket No. ER86-545-000]

June 24, 1986.

Take notice that on June 18, 1986, the New England Power Pool (NEPOOL) filed an Agreement Amending the New England Power Pool Agreement (amendment), dated as of January 1, 1986, which modifies the provisions of the New England Power Pool Agreement.

The NEPOOL Executive Committee states that amendment permits NEPOOL Participants to pay for PTF transmission of Entitlements in Pool-Planned Units that are off their systems on the basis of ownership or contractual rights independent of the NEPOOL Agreement when retransferring the Entitlements for durations of less than 30 days. The NEPOOL Executive Committee further states that the amendment revises the formula for computing the EHV PTF rate.

The NEPOOL Executive Committee states that the amendment is intended tc make the modifications in the NEPOOL Agreement which were agreed upon by the NEPOOL Executive Committee and the Pool Participants who were parties to Federal Energy Regulatory Commission Docket No. ER83-766-000 (which related to amendment of Section 4.2 of the NEPOOL Agreement).

Pursuant to § 35.11 of the Commission's Regulations (18 CFR 35.11), the NEPOOL Executive Committee has requested that the Commission waive prior notice requirements and permit the amendment to become effective on the date specified in the amendment, April 1, 1986.

Comment date: July 7, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. South Carolina Electric & Gas Company

[Docket No. ER86-360-000]

June 23, 1986.

Take notice that on June 16, 1986, South Carolina Electric & Gas Company (SCG&E) tendered for filing additional cost support for its filing in this docket. This material is in response to a deficiency letter, dated May 15, 1986, to SCG&E from the Director of the Division of Electric Power Applications Review, Office of Electric Power Regulation. SCG&E states that it has sent copies of this additional material to the Administrator of the Southeastern Power Administration.

Comment date: July 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Kansas Gas and Electric Company

[Docket No. ER86-503-000]

June 23, 1986.

Take notice that on June 17, 1986, Kansas Gas and Electric Company (KG&E) submitted for filing in this docket corrections of two errors in the cost support for its prior filing in this docket. The first correction concerns KG&E's estimate of A&G ecpenses. The second correction is in the cost data in support of the participation power charge in the filing. KG&E renews its request that the Commission waive the minimum notice requirements of § 35.3 of the regulations to permit service to the Oklahoma Municipal Power Authority to begin on July 1, 1986.

Comment date: July 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Western Massachusetts Electric Company

[Docket No. ER86-378-000]

June 24, 1986.

Take notice that on June 17, 1986, Western Massachusetts Electric Company (WMECO) tendered for filing additional information resulting in a recalculation and reduction in rate under a Distribution Line Agreement dated February 4, 1985 between (1) WMECO and (2) Chicopee

Hydroelectric Limited Partnership (CHLP) (Distribution Agreement).

The originally proposed rate was derived from a Formula which included substation accounts and which was inappropriate for this application. Pursuant to FERC's questioning of this Formula, a new Formula is now submitted. This new Formula results in a decrease in the proposed rate by approximately 30 percent.

WMECO renews its request that the Commission waive its standard notice period and permit the Distribution Agreement to become effective on February 4, 1985. WMECO states that copies of this rate schedule have been mailed or delivered to CHLP (Boston , Massachusetts). WMECO further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: July 7, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Commonwealth Edison Company

[Docket No. ES86-46-000]

June 23, 1986.

Take notice that on June 11, 1986, Commonwealth Edison Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to issue not more than $1,200,000,000 of short-term promissory notes on or before December 31, 1988, with final maturities of not later than December 31, 1989.

Comment date: July 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 86-14636 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

Friant Power Authority et. al.; Notice of Hydroelectric Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed wth the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Amendment of License.

b. Project No.: 2892-004.

c. Date Filed: March 10, 1986.

d. Applicant: Friant Power Authority.

e. Name of Project: Fish Release Power Plant.

f. Location: At the Bureau of Reclamation Friant Dam on the San Joaquin River in Fresno and Madera Counties, California.

g. Filed Pursuant to: 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. John Boudreau, c/o Terra Bella Irrigation District, 24790 Avenue 95, Terra Bella, CA 93270, (209) 535-4414.

i. Comment Date: July 25, 1986.

j. Description of Project: The development, which would be placed parallel to existing water supply lines from Friant-Kern Canal Outlet F-4 to the California Department of Fish and Game's San Joaquin Fish Hatchery, would consist of: (1) a 24-inch-diameter steel pipe; (2) a 36-foot-wide, 50-foot-long powerhouse 500 feet downstream of the dam containing a generating unit rated at 450 Kw; (3) a 24-inch-diameter steel pipe connecting to the aerator tank of the hatchery; (4) a 0.48/12-kV transformer in a switchyard adjacent to the powerhouse; and (5) a 300-foot-long, 12-kV underground transmission cable.

The proposed development would have an average annual generation of 2.4 GWh at an estimated July 1985 cost of $1,250,000.

k. Purpose of Project: The development would generate power from the excess energy in the hatchery water supply pipeline. Power would be sold to the Pacific Gas and Electric Company.

l. This notice also consists of the following standards paragraphs: B, C, and D1.

2 a. Type of Application: Amendment of License.

b. Project No.: 2905-007.

c. Date Filed: March 19, 1986.

d. Applicant: Vermont Public Power Supply Authority.

e. Name of Project: Enosburg Falls Project.

f. Location: On the Missisquoi River in the Village of Enosburg Falls, Franklin County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Robert E. Howland, Vermont Public Power Supply Authority, P.O. Box 425, Williston VT 05495, (802) 878-5274.

i. Comment Date: July 28, 1986.

j. Description of Project: The project as licensed consists of: (1) the existing concrete gravity dam 18.5 feet high and 195 feet long; (2) the existing impoundment which has a normal maximum surface area of 121 acres at an elevation of 386.5 feet NGVD, using 2-foot flashboards, a useable storage capacity of 240 acre-feet and a gross storage capacity of 750 acre-feet; (3) the existing intake structure will be enlarged to serve both; (4) the proposed powerhouse adjacent to the existing Village Plant powerhouse and containing one unit with a generating capacity of 2,000 kW; and (5) the existing Village Plant powerhouse containing one existing unit with a generating capacity of 600 kW; (6) the existing tailrace to be enlarged; (7) the existing 5-foot-diameter penstock leading from the existing concrete dam to; (8) the existing Kendall Plant powerhouse containing one existing unit with a generator capacity of 150 kW; (9) transmission equipment and electrical facilities consisting of; (a) 250.0-feet-long and 200.0-foot-long 2.4-kV generator leads respectively, from, the Kendall and Village Plants to Enosburg Substation; (b) 220.0-foot-long 12.47-kV generator leads from the new plant to the Enosburg substation; (c) the 2.5-MVA 4.16/12-47 kV transformer; (10) the existing tailrace at Kendall Plant; and (11) appurtenant facilities. The Applicant estimates that the total annual energy output would be 9,200 MWh.

The amended project would consist of: deletion of the proposed powerhouse containing a 2000-kW generating unit and the proposed enlargement of the intake structure and tailrace channel. The average annual energy generation of the amended project is estimated to be 3,400 MWh. The licensee states that the project as licensed is no longer economically feasible and that the power which would be produced as a result of the new construction is too expensive relative to alternatives available to the licensee.

k. Purpose of Project: All project energy generated would be sold to licensee's member utilities.

l. This notice also consists of the following standards paragraphs: B, C, and D1.

3 a. Type of Application: Exemption Under 5MW.

b. Project No.: 9728-000.

c. Date Filed: December 26, 1985

d. Applicant: South Barre Hydro Electric Company, Inc.

e. Name of Project: Powder Mill Pond Dam Project.

f. Location: On the Ware River in Worcester County, Massachusetts.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. § 2705 and 2709.

h. Contact Person: Kathleen McLean, South Barre Hydro Electric Co., Inc., P.O. Box 512, Allen Drive, Barre, MA 01005 (617) 355–4575.

i. Comment Date: July 25, 1986.

j. Description of Project: The proposed project would consist of: (1) renovating an existing 14-foot-high, 125-foot-long concrete dam with a spillway crest elevation of 644.6 msl owned by the Applicant; (2) an existing 6-acre surface area reservoir with a storage capacity of 20 acre-feet with a maximum surface elevation of 624.6 msl; (3) an existing rectangular canal which discharges flows through an elbowed draft tube; (4) a proposed powerhouse to contain one turbine/generator with an installed capacity of 120 kw; (5) a proposed tailrace; (6) a new transmission line; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 630 MWh per year operating under a net hydraulic head of 14 feet.

k. Purpose of Project: Project power will be sold to the Massachusetts Electric Company.

l. This notice also consists of the following standard paragraphs: A3, B, C, and D3a.

m. *Purpose of Exemption*—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

4 a. Type of Application: Transfer of License.

b. Project No.: 4472–006

c. Date Filed: May 2, 1986.

d. Applicant: Niagara Mohawk Power Corporation and Union Falls Hydropower Limited Partnership.

e. Name of Project: Saranac.

f. Location: Saranac River in the Towns of Franklin, Blackbrook and St. Armand, Franklin, Clinton and Essex Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Mr. John Terry, Esq., Senior Vice President, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474–1511.

Mr. Wayne Rogers, Union Falls Hydropower Limited Partnership, c/o Synergics, Inc., 410 Severn Avenue, Suite 313, Annapolis, MD 21403, (301) 268–8820.

i. Comment Date: July 14, 1986.

j. Description of the proposed Transfer of License: The applicants propose to transfer the license to Niagara Mohawk Power Corporation and Union Falls Hydropower Limited Partnership, because it would be in the public interest and it would facilitate construction and result in a substantial annual cost savings to Niagara Mohawk's ratepayers. The Saranac Project has not been constructed. Transferee has proposed to construct, operate, and utilize the full output of the project in accordance with the license.

Union Falls Hydropower Limited Partnership is organized and existing under the laws of the State of Maryland.

k. This notice also consists of the following standard paragraphs: B and C.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 9657–001

c. Date Filed: December 3, 1985.

d. Applicant: St. Maries River Hydro, Inc.

e. Name of Project: St. Maries River.

f. Location: On the St. Maries River in Sec. 34, T45N, R2W, near St. Maries, Benwah County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Mr. James R. Morris, St. Maries River Hydro, Inc., P.O. Box 1016, Lewiston, ID 83501, (208) 799–1352.

i. Comment Date: July 30, 1986.

j. Competing Application: Project No. 9660, Date Filed: 12/3/85, Due Date: 3–21–86.

k. Description of Project: The proposed project would consist of: (1) a 10-foot-high diversion dam at elevation 2,800 feet; (2) a 2,315-foot-long, 102-inch-diameter penstock; (3) a powerhouse containing one generating unit with a capacity of 3,670 kW; and (4) a 6-mile-long transmission line. Applicant estimates the average annual energy production to be 16,136,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $770,000. No new roads would be constructed or drilling conducted during the feasibility study.

1. Purpose of Project: The proposed power produced is to be sold to the local power company.

m. This notice also consist of the following standard paragraphs: A8, B, C, and D2.

6 a. Type of Application: New License.

b. Project No.: 2307–008.

c. Date Filed: October 15, 1985.

d. Applicant: Alaska Light and Power Company.

e. Name of Project: Annex Creek and Salmon Creek.

f. Location: The project is located on Annex and Salmon Creeks near Juneau, Alaska, partially within the Tongass National Forest, T.41S., R.69E., 68E, and 67E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William A. Corbus, Alaska Light and Power Company, 134 North Franklin St., Juneau, Alaska 99801, (907) 586–2222.

i. Comment Date: July 28, 1986.

j. Expiration of Initial License: August 31, 1988.

k. Description of Project: The Annex Creek component consists of: (1) a 20-foot-high timber buttress dam at a natural lake forming; (2) a 264-acre reservoir with a storage capacity of 23,400 acre-feet at a normal reservoir surface elevation of 844.3 feet; (3) a lake tap at elevation 690 feet; (4) a 1,418-foot-long, 8-foot-diameter tunnel; (5) a 7,031-foot-long penstock varying in diameter from 42 inches to 34 inches; (6) a powerhouse containing 2 generating units with a total rated capacity of 3.6 MW; (7) an 18-foot-deep by 40-foot-wide concrete tailrace; and (6) 12 miles of 23-kV transmission line.

The Salmon Creek component consists of: (1) a 170-foot-high concrete dam forming; (2) a 165-acre reservoir with a storage capacity of 12,000 acre-feet at a normal reservoir surface elevation of 1,172 feet; (3) a 10-foot-wide, 11-foot-high intake structure; (4) a 36-inch-diameter concrete conduit; (5) a 4,475-foot-long upper penstock that bifurcates immediately above the upper powerhouse; (6) an upper powerhouse containing 2 generating units with a total rated capacity of 2.8 MW; (7) an 11,030-foot-long lower penstock from the bifurcation to the lower powerhouse; (8) a lower powerhouse containing one generating unit with a rated capacity of 6.7 MW; and (9) 2 miles of 23-kV transmission line. Total project installed capacity is 13.1 MW.

The average annual energy generation of Annex Creek is 24.2 GWh and of Salmon Creek 31.5 GWh. The total net investment for the project as of December 31, 1984, is $7,247,627.64.

1. This notice also consists of the following standard paragraphs: A3, A9, B and C.

7 a. Type of Application: Minor License.

b. Project No.: 8835–002.

c. Date Filed: December 16, 1985.

d. Applicant: Dewey B. Smith.

e. Name of Project: Dewey B. Smith Hydroelectric.

f. Location: On Shasta River, near town of Yreka, in Siskiyou County, California (in Section 1 of T45N, R7W, MDB&M).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Dewey B. Smith, 4416 Old Shasta River Road, Yreka, CA 96007, (916) 842–7261.

i. Comment Date: July 28, 1986.

j. Description of Project: The proposed project would consist of: (1) a 4-foot-high, 214-foot-long existing diversion dam at elevation 2,320 feet m.s.l.; (2) a 4.5-foot-deep, 12-foot-wide existing canal; (3) three 48-inch-diameter, 48-foot-long penstock; (4) a 12-inch-diameter, 48-foot-long penstock for the auxiliary unit; (5) a powerhouse containing three generating units with a total installed capacity of 480 kW operating under a head of 35 feet; (6) a 10-kW auxiliary unit; and (7) a 200-foot-long, 12.5-kV transmission line interconnecting the project to an existing Pacific Power and Light Company's (PP&L) line. The project's estimated average annual generation of 1.55 million KWh will be sold to PPL. The project cost has been estimated to be about $350,000. No recreational facilities are proposed as a part of the project. The existing facilities are owned by the Applicant.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 9652–000.

c. Date Filed: November 27, 1985.

d. Applicant: Mr. Edward T. Navickis.

e. Name of Project: Daquerre Point Power.

f. Location: On Yuba River, near Marysville, at the U.S. Army Corps of Engineers' Daquerre Point Dam in Yuba County, California (Section 29, TI6N, R5E, M.D.M.&B.)

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Edward T. Navickis, P.O. Box 1578, Grass Valley, CA 95945, (916) 432–2560.

i. Comment Date: July 28, 1986.

j. Description of Project: The proposed project would consist of: (1) five 9-foot-diameter, 450-foot-long penstocks; (2) a powerhouse containing ten turbine-generator units with a combined rated capacity of 5,500 kW and operating under a head of 25 feet; and (3) a 12-kV, ¼-mile-long transmission line interconnecting the project to an existing Pacific Gas & Electric Company (PG&E) line. The project's estimated average annual generation of 26.3 GWh would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $126,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 9858–000.

c. Date Filed: January 2, 1986.

d. Applicant: Belmont Springs—A Limited Partnership.

e. Name of Project: Belmont Springs Power Project.

f. Location: Malad River & Geothermal Springs in Box Elder County, Utah: Sections 14 and 23, Township 13 North, Range 3 West, Salt Lake Base & Meridian.

g. Filed Pursuant to: Federal Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Scott C. Holmgren, Box 36, Fielding, Utah 84311.

i. Comment Date: July 25, 1986.

j. Description of Project: The proposed project would be located entirely on privately owned lands and would consist of: (1) an earthfill dam, about 14 feet high and 50 feet long; (2) an outlet works and a penstock, 56 inches in diameter and 15 feet long; (3) two turbine-generator units housed in the penstock itself and rated at 20 kW each for a total of 40 kW; (4) a tailrace returning flow to the Malad River; (5) a 42-kV transmission line, about 12,000 feet long, interconnecting with a Utah Power and Light Co. line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 315,360 kWh.

k. Purpose of Project: Project energy would be utilized by the applicant and/or sold to the Utah Power and Light Co.

l. This notice also consist of the following standard paragraphs: A5, A7, A9, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9981–000.

c. Date Filed: April 24, 1986.

d. Applicant: C&C Hydro Partnership of New York.

e. Name of Project: Talcottville.

f. Location: Sugar River is Lewis County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Frank O. Christie, Ballard Mill, South William Street, Malone, NY 12953, (518) 483–1945.

i. Comment Date: July 28, 1986.

j. Description of Project: The proposed project would consist of: (1) an existing 4-foot-high, 65-foot-long concrete and stone gravity dam; (2) a reservoir with a surface area of 2 acres, a storage capacity of 10 acre-feet, and a normal water surface elevation of 1,120.0 feet m.s.l.; (3) a new intake structure; (4) a new 5-foot-diameter, 430-foot-long steel penstock; (5) a new concrete powerhouse containing one generating unit with a capacity of 650 kW; (6) a new 30-foot-long earth tailrace; (7) a new 700-foot-long access road; (8) a new transmission line, 125 feet long; and (9) appurtenant facilities. The applicant estimates the average annual generation would be 1,500,000 kWh. The existing dam is owned by Mr. Donald M. Colton, Lowville, New York.

k. Purpose of Project: Project power would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 24 months during which time the applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the applicant would decide whether to proceed with an application for FERC license. The applicant estimates that the cost of the studies under permit would be $10,000.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary

permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may by filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and

wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: June 24, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-14638 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-509-000, et al.]

Natural Gas Certificate Filings; Alabama-Tennessee Natural Gas Co. et al.

Take notice that the following filings have been made with the Commission:

1. Alabama-Tennessee Natural Gas Company

[Docket No. CP86-509-000]

June 24, 1986.

Take notice that on May 21, 1986, as supplemented on May 30, 1986, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35631, filed in Docket No. CP86-509-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to the City of Huntsville Utilities (Huntsville), 3.963 miles of 12¾-inch pipeline and 3.963 miles of 10¾-inch pipeline, all as more fully set forth in the application on file with the Commission and open to public inspection.

Alabama-Tennessee states that the pipeline was originally built to serve the City of Huntsville, Alabama and is located within the city limits. Alabama-Tennessee also states that subsequent to the construction of the facilities, the population of the city has increased, that potential residential and commercial customers have located in close proximity to such facilities, and that Huntsville desires to incorporate the facilities into its distribution system to serve the potential customers. Alabama-Tennessee states that Huntsville has agreed to pay Alabama-Tennessee $263,400.00 for the pipeline facilities, associated fittings, easements and rights-of-way.

Alabama-Tennessee further states that the State of Alabama Highway Department is currently working on the construction of Interstate Highway I-565, which connects the City of Huntsville to I-65, and which construction requires the relocation of the meter and regulatory station serving the City of Huntsville. Alabama-Tennessee also asserts that the proposed abandonment and sale of facilities would not result in the abandonment or diminution of natural gas service presently being rendered to its customers.

Comment date: July 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Algonquin Gas Transmission Company

[Docket No. CP86-544-000]

June 24, 1986.

Take notice that on June 6, 1986, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to provide interruptible transportation service to 14 existing customers under its proposed Rate Schedule T-IS, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to render interruptible transportation service under its proposed Rate Schedule T-IS to the following existing customers up to the Maximum Daily Quantities indicated below.

Customer	Rate schedule T-IS, maximum daily quantities (billion Btu)
Bay State Gas Co	40,000
Boston Gas Co	380,000
Central Hudson Gas & Electric Corp	8,000
Colonial Gas Co	15,000
Commonwealth Gas Co	75,000
The Connecticut Light and Power Co	82,000
Connecticut Natural Gas Corp	60,000
Consolidated Edison Co. of New York, Inc	30,000
Fall River Gas Co	5,000
Town of Middleborough, Massachusetts	1,000
City of Norwich, Connecticut	11,000
Orange & Rockland Utilities, Inc	156,000
Providence Gas Co	85,000
The Southern Connecticut Gas Co	45,000
Total	993,000

Applicant states that the proposed interruptible transportation service to such customers would be for a maximum term of five years, and would be dependent upon customers arranging for transportation of gas to Applicant's system for transportation under Rate Schedule T-IS. It is explained that such customers would also be responsible for any transportation arrangements required after delivery by Applicant.

It is further explained that the rate for service under proposed Rate Schedule T-IS would be at two levels. For customers eligible for Algonquin Gas' existing Rate Schedule T-1 service, the rate would equal the effective rate for authorized overrun service under Rate Schedule T-1 (presently $0.0482 per billion Btu). For all other customers the rate would be $0.1474 per billion Btu. Rate Schedule T-IS also would incorporate provisions for fuel reimbursement to Applicant. Applicant states that no additional facilities would be required for the proposed service.

Comment date: July 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. ANR Pipeline Company

[Docket No. CP86-547-000]

June 24, 1986.

Take notice that on June 9, 1986, ANR Pipeline Company (ANR) 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP86-547-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 2.5 miles of 20-inch pipeline in St. Mary Parish, Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR states that the 2.5 miles of pipeline to be abandoned was originally part of its facilities utilized to transport natural gas from offshore Louisiana to the Patterson terminal near Avalon, St. Mary Parish, Louisiana. ANR further states that after it constructed the Patterson compressor station in 1969, the pipeline was utilized to transport liquids, which were separated from the gas stream before entering the

compressor station, and small quantities of natural gas to the Patterson terminal.

ANR asserts that corrosive deterioration of the 2.5 miles of pipeline has occurred and replacement of the pipeline is necessary. ANR would replace the pipeline with 8⅝-inch pipeline which would be more efficient for the transportation of liquids. ANR states that it would construct the new pipeline as an auxiliary installation pursuant to § 2.55(a) of the Commission's Regulations.

Comment date: July 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. ANR Pipeline Company

[Docket No. CP86–518–000]

June 24, 1986.

Take notice that on May 29, 1986, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docked No. CP86–518–000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing ANR to transport gas for Champlin Petroleum Company (Champlin) acting for and on its own behalf and as operator for the Williams Exploration Company and Pioneer Production Company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to transport up to 25,000 dt equivalent of natural gas per day on an interruptible basis for Champlin for a term of two years. It is stated that gas developed by Champlin, as operator, would be delivered to facilities proposed by the High Island Offshore System (HIOS) in West Cameron Block 342, offshore Louisiana. ANR would transport the gas within its dedicated capacity in HIOS and in its own facilities, and would deliver the gas on Champlin's behalf to the following recipients at interconnections of the facilities of ANR and the various recipients in St. Mary, St. Landry, Acadia and Cameron Parishes, Louisiana:

Acadian Gas Pipeline System
Bridgeline Gas Distribution Company
Columbia Gulf Transmission Company
Louisiana Intrastate Gas Corporation
Riverway Gas Pipeline Company
Southern Natural Gas Company
Texas Gas Transmission Corporation
Trunkline Gas Company
United Gas Pipeline Company
Florida Gas Transmission Company
Monterey Pipeline Company
Texas Eastern Gas Pipeline Company
Texas Gas Transmission Corporation
Transcontinental Gas Pipe Line Corporation
Louisiana Resources Company
Faustina Pipe Line Company
Natural Gas Pipeline Company of America
Tennessee Gas Transmission Company
Tenngasco Corporation
Texas Gas Transmission Corporation
Transcontinental Gas Pipe Line Corporation
Trunkline Gas Company

ANR would charge Champlin 8.23 cents for each dt equivalent delivered in Cameron Parish, Louisiana, and 10.83 cents for each dt equivalent delivered in Acadia, St. Landry and St. Mary Parishes, Louisiana. These amounts include charges assessed ANR by HIOS. It is further stated that ANR would collect a Gas Research Institute surcharge of 1.35 cents per Mcf of gas delivered to Champlin.

ANR's application states that all transportation services would be conditioned upon the availability of capacity sufficient to provide such service without impairing service to ANR's existing resale customers dependent on ANR's general system supply or to provide firm transportation services.

Comment date: July 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Equitable Gas Company, a division of Equitable Resources, Inc.

[Docket No. CP86–553–000]

June 24, 1986.

Take notice that on June 6, 1986, Equitable Gas Company, a division of Equitable Resources, Inc. (Equitable) 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP86–553–000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity that would authorize Equitable to transport natural gas on behalf of others pursuant to Order No. 436, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitable indicates that it intends to transport natural gas on behalf of all shippers and elects to become a transporter under the terms and conditions of the Commission's Order No. 436, issued October 9, 1985, in Docket No. RM85–1–000. Equitable states that it accepts and would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations which paragraph refers to Subpart A of Part 284 of the Commission's Regulations. Equitable notes that its currently effective rate for transportation (Rate Schedule TS–1) is a one-part rate which was effective prior to November 1, 1985, on file with the Commission for transportation under Subpart B of Part 284 which Equitable believes conforms with the requirements of interim rates prescribed by § 284.7(b)(1) of the Commission's Regulations. Equitable states further that it has filed new transportation rates at Docket No. RP86–102–000 to be effective not later than July 1, 1986, that conform to the provisions of § 284.7 as required under § 284.7 as required under § 284.7(b)(2) of the Commission's Regulations.

Comment date: July 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP86–136–002]

June 24, 1986.

Take notice that on June 9, 1986, Natural Gas Pipeline Company of America (Petitioner), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP86–136–002, a petition to amend the order issued May 1, 1986, in Docket No. CP86–136–000 pursuant to section 7 of the Natural Gas Act, so as to authorize the transportation of natural gas on an interruptible basis for Northern Petrochemical Company, n.k.a Norchem, Inc. (Norchem), for an additional term ending April 30, 1987, and for pre-granted abandonment of such service, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that pursuant to an amendment dated May 29, 1986, to the gas transportation agreement dated June 28, 1985, as amended, Petitioner and Norchem propose to extend the expiration of the agreement from July 2, 1986, until April 30, 1987.

The May 1, 1986, Commission order issued in Docket No. CP86–136–000 authorized Petitioner to transport up to 20,000 MMBtu of natural gas per day on an interruptible basis for the account of Norchem from Nacogdoches County, Texas, to DuPage and Livingston Counties, Illinois, for ultimate delivery to Norchem's Morris, Illinois, plant. Petitioner received said transportation and pre-granted abandonment authorization only for the term expiring July 2, 1986. Petitioner states that it would transport Norchem's gas pursuant to its FERC Gas Tariff, Second Revised Volume No. 2, Rate Schedule No. X–150.

Comment date: July 14, 1986, in accordance with the first subparagraph

of Standard Paragraph F at the end of this notice.

7. Panhandle Eastern Pipe Line Company

[Docket No. CP86-551-000]

June 24, 1986.

Take notice that on June 11, 1986, Panhandle Eastern Pipe LIne Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-551-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of American Cyanamid Company (American), and the construction of one receipt point in Meade County, Kansas, additionally granting the authority to Applicant to report annually additional points of receipt and redelivery, and granting the authority to abandon this service when the contract term expires, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a transportation agreement dated June 5, 1986, Applicant has agreed to transport up to 3,000 Mcf of natural gas per day on behalf of American. Applicant would receive the gas for American's account from various points in Oklahoma and Kansas. Applicant would redeliver for American's account to Kansas Power and Light in Marion County, Missouri. American would pay Applicant 43.36 cents per Mcf for this service.

Comment date: July 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

8. Sabine Pipe Line Company

[Docket No. CP86-522-000]

June 24, 1986.

Take notice that on May 30, 1986, Sabine Pipe Line Company (Sabine), P.O. Box 52332, Houston, Texas 77052, filed in Docket No. CP86-522-000 an applicant pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations (18 CFR 284.221) for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas for others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sabine states that it accepts and would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations which paragraph refers to Subpart A of Part 284 of the Commission's Regulations. Sabine also requests pre-granted authorization to abandon transportation services as provided in Subpart F of Part 284. Sabine notes that it has concurrently filed FERC Gas Tariff, First Revised Volume No. 1 in order to comply with § 284.7(b)(1) of the Commission's Regulations. It is proposed that this new tariff become effective July 1, 1986.

Comment date: July 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

9. Tennessee Gas Pipeline Company A Dividision of Tenneco, Inc.

[Docket No. CP86-543-000]

June 24, 1986.

Take notice that on June 6, 1986, Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed an application in Docket No. CP86-543-000 pursuant to Section 7(c) of the Natural Gas Act to render a transportation service for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee requests authorization to render an interruptible natural gas transportation service for Transco pursuant to a Gas Transportation Agreement (Agreement) between Transco and Tennessee dated May 27, 1986. It is stated that the proposed transportation service would allow Transco to continue the importation of gas for Canada under Transco's long term gas supply contract with Sulpetro, Limited.

Tennessee states that it would accept and receive on an interruptible basis, as determined in Tennessee's sole opinion, a quantity of up to 75,000 dekathems of natural gas per day at a point of receipt located at the interconnection between the facilities of Tennessee and TransCanada near the United States-Canadian International Border near Niagara Falls, Ontario.

Tennessee proposes to transport and deliver thermally equivalent quantities to Transco, for its system supply or as agent on behalf of certain Transco customers, to points of delivery near Marilla, New York, Riverdale, New Jersey, Ellisburg, Pennsylvania, East Aurora, New York and Clarence, New York.

Tennessee states that it presently transports natural gas purchased by Transco from Sulpetro under a Gas Transportation Agreement between Tennessee and Transco dated April 5, 1982. Transco's contract with Sulpetro allows Transco to purchase gas either for its system supply, or as agent on behalf of certain Transco customers. This contract has been approved by Canada's National Energy Board and by the U.S. Economic Regulatory Administration.

Tennessee states that service under the new agreement between Tennessee and Transco would begin upon receipt by Tennessee of a certificate of public convenience and necessity as requested herein. At that time, the original April 5, 1982 Agreement would be superseded in its entirety. Absent the new arrangement, however, the April 5, 1982, Transportation Agreement would expire on November 1, 1986.

Tennessee states that Transco would pay for the proposed transportation service a quantity charge equal to the product of the applicable quantity charge multiplied by the total quantity of gas delivered by Tennessee for the account of Transco during the month. Such charges range from 5.18 cents to 22.32 cents per MMBtu depending on the distance of the delivery point from Niagara. Tennessee further states that Transco would either furnish a percentage of the gas for fuel use or pay Tennessee at its weighted average cost of gas for fuel used to provide the requested transportation. Fuel percentages range from 0.66 percent to 1.00 percent of volumes of natural gas received, depending on the distance of each redelivery point.

Comment date: July 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

10. Texas Gas Transmission Corporation

[Docket No. CP86-554-000]

June 23, 1986.

Take notice that on June 13, 1986, Texas Gas Transmission Corporation (Texas Gas), 3800 Federica Street, Owensboro, Kentucky 42301, filed in Docket No. CP86-554-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission to abandon by removal a delivery point to its customer, Ohio Valley Gas, Inc. (Ohio Valley), under the authorization issued in Docket No. CP82-407-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas states that Ohio Valley has requested that Texas Gas abandon the St. John Station, a delivery point pursuant to an existing Service Agreement between the parties date September 1, 1970. Texas Gas asserts that the station, located on Texas Gas' Slaughters-Montezuma Pipeline System

in Warrick County, Indiana, is no longer needed because of all of Ohio Valley's customers located downstream of the subject station have been abandoned by Ohio Valley in conjunction with a surface coal mining operation. The natural gas service to the former customers of Ohio Valley would not be resumed after the completion of the mining operation due to the fact that the residences and associated structures have been demolished or will be demolished by the coal company, it is stated.

Comment date: August 7, 1986, in accordance with Standard Paragraph G at the end of this notice.

11. Texas Gas Transmission Corporation

[Docket No. CP86–546–000]

June 23, 1986.

Take notice that on June 9, 1986, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP86–546–000, a request pursuant to §§ 157.212 of the Regulations under the Natural Gas Act (18 CFR Sections 157.205 and 157.212) to increase the capacity of an existing delivery point for Mississippi Valley Gas Companay (MVG) under the authorization issued to it in Docket No. CP82–407–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas indicates that it currently makes natural gas sales to MVG pursuant to a service agreement dated September 1, 1970. It is indicated that MVG has requested that Texas Gas install an expanded delivery point in order for it to more adequately render natural gas service to its existing customer, the Greenville Airport Industrial Park. Texas Gas states that the expanded delivery point, to be located on Texas Gas's 18-inch pipeline system near the Town of Metcalfe, Washington County, Mississippi, would have a capacity of 12.2 billion Btu's (an increase from the present capacity of 7.2 billion Btu's) per day in order to enable MVG to accommodate the increasing industrial manufacturing activity at the industrial park.

Texas Gas states that the expanded delivery point will not result in an increase in MVG's existing contract demand or quantity entitlement. Furthermore, it is indicated that service to MVG through the expanded delivery point could be accomplished without detriment to Texas Gas's other customers. Texas Gas states that the increase in volumes of natural gas delivered by Texas Gas to MVG as a result of the project proposed herein is so minimal that it would have virtually no effect on Texas Gas's peak day and annual deliveries.

Comment date: August 7, 1986, in accordance with Standard Paragraph G at the end of this notice.

12. Trunkline Gas Company

[Docket No. CP86–552–000]

June 24, 1986.

Take notice that on June 11, 1986, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86–552–000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Tenneco Oil Company (Tenneco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline states that pursuant to a transportation agreement between Trunkline and Tenneco dated April 29, 1986, Trunkline has agreed to transport up to 16,000 Mcf of natural gas per day on an interruptible basis on behalf of Tenneco. Trunkline would receive volumes of gas for Tenneco's account from Tennessee Gas Pipeline Company, a division of Tenneco Inc. (Tennessee), at an existing receipt point between Trunkline and Tennessee at West Cameron Block 639, offshore Louisiana. Trunkline states it would redeliver for Tenneco's account at two existing interconnection points with Tennessee at Centerville, St. Mary Parish, Louisiana, and Kinder, Jefferson Davis Parish, Louisiana. For this transportation service Tenneco would pay 18.23 cents per million Btu of gas.

Comment date: July 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

13. United Gas Pipe Line Company

[Docket No. CP85–465–001]

June 24, 1986.

Take notice that on May 20, 1986, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP85–465–001, a petition pursuant to section 7(c) of the Natural Gas Act to amend its certificate of public convenience and necessity authorizing the transportation of natural gas, issued in Docket No. CP85–465–000 on February 25, 1986, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

United indicates that pursuant to the certificate issued in Docket No. CP85–465–000, it is presently authorized to transport up to 8.5 million Mcf of natural gas per day from an existing receipt point in North East Houma field, Lafourche Parish, Louisiana, to Columbia Gulf Transmission Company (Columbia Gulf) for the account of SCM Corporation (SCM) at an existing delivery point near Erath, Vermilion Parish, Louisiana. United states that subsequent to this certificate authorization, the underlying transportation agreement between United and SCM was assigned by SCM to ABC Chemical, Inc. (ABC).

In Docket No. CP85–465–001, United indicates that United and SCM executed two amendments to the contract prior to its assignment to ABC. United states that the first of these amendments provides for an increase in the maximum daily quantity to be transported for SCM/ABC from 8.5 million to 13 million Mcf and for a change in the transportation rate charged SCM from Type I to Rate Schedule IT Type I as established in Docket No. CP85–467–000. The second amendment provides for the addition of Cotton Plant Field production as an additional source of supply; the addition of a redelivery point for the account of SCM/ABC at the existing interconnection of United and Columbia Gulf's facilities near Barron, Rapides Parish, Louisiana; and, to clarify the term of the transportation agreement as being three years from the date of first deliveries.

United states that amendment of its existing certificate to reflect these contractual changes would enable it to transport increased volumes of gas with increased operational flexibility.

Comment date: July 14, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this Notice.

14. Trunkline Gas Company

[Docket No. CP86–572–000]

June 23, 1986.

Take notice that on June 18, 1986, Trunkline Gas Company (Applicant), P.O. 1642, Houston, Texas 77001, filed in Docket No. CP86–572–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) for a limited-term certificate of public convenience and necessity and request for temporary authority to transport natural gas on behalf of certain Shippers until the earlier of June 30, 1987, or thirty days from the date which Applicant accepts an Order No. 436 blanket certificate in accordance with the Commission's Regulations under Part 284, all as more fully set forth in the application which is

on file with the Commission and open to public inspection.

Applicant indicates that it is currently providing transportation services pursuant to section 311 of the Natural Gas Policy Act of 1978. Without further transportation authority Applicant would have to terminate these services on June 30, 1986. Certain Shippers, listed in the Appendix, have requested that Applicant continue this service pursuant to section 7(c) of the NGA. Applicant requests authority to provide such service until the earlier of June 30, 1987, or thirty days after Applicant's acceptance of a blanket certificate under Part 284 of the Regulations.

Applicant further requests a temporary certificate to perform these transportation services because of the emergency created by termination of the present Section 311 authorizations.

Applicant would charge these Shippers a rate as reflected in its Rates Schedule PT. Applicant also requests authority to add and delete points of receipt subject to periodic reporting requirements.

Comment date: July 11, 1986, in accordance with Standard Paragraph F et the end of this notice.

(See attached Appendix.)

TRUNKLINE GAS COMPANY

Number	Docket No.	Contract date	Shipper	Volume Mcf/day
1	ST86-708	11-18-85	Panhandle Trading Company	72,165
2	ST86-769	11-27-85	Consumers Power Company	51,100
3	ST86-771	11-27-85	Illinois Power Company	25,000
4	ST86-823	12-13-85	Michigan Gas Utilities Co.	2,100
5	ST86-799	12-06-85	Consumers Power Company	99,200
6	ST86-863	12-31-85	Michigan Gas Utilities Co.	40,000
7	(3)	01-13-86	THC Pipeline Company	1,000
8	ST86-916	01-10-86	Consumers Power Company	1,200
9	ST86-920	01-14-86	Consumers Power Company	26,800
10	ST86-1056	02-03-86	Consumers Power Company	1,600
11	ST86-1193	02-05-86	TransAmerican Gas Transmission	60,000
12	ST86-1118	03-05-86	Panhandle Trading Company	5,000
13	ST86-1119	03-07-86	Consumers Power Company	1,700
14	ST86-1194	03-12-86	Victoria Gas Corporation	2,000
15	ST86-1170	03-13-86	Consumers Power Company	1,000
16	ST86-1211	03-20-86	Consumers Power Company	70,000
17	ST86-1214	03-24-86	Consumers Power Company	67,000
18	ST86-1213	03-25-86	Michigan Gas Utilities	2,000
19	ST86-1212	03-25-86	Northern Intrastate Pipe Line	65,000
20	ST86-1210	03-26-86	Consumers Power Company	40,000
21	ST86-1372	04-04-86	Consumers Power Company	6,000
22	ST86-1373	04-04-86	Consumers Power Company	22,000
23	ST86-1381	04-07-86	Michigan Gas Utilities	3,100
24	ST86-1394	04-07-86	Consumers Power Company	8,000
25	ST86-1393	04-01-86	Consumers Power Company	750
26	ST86-1401	04-08-86	Consumers Power Company	560
27	ST86-1403	04-14-86	Consumers Power Company	13,300
28	ST86-1404	04-09-86	Consumers Power Company	5,800
29	ST86-1414	04-15-86	Consumers Power Company	4,330
30	ST86-1405	04-17-86	Panhandle Trading Company	1,500
31	ST86-1400	04-22-86	Consumers Power Company	215
32	ST86-1402	04-22-86	Consumers Power Company	1,000
33	ST86-1399	04-22-86	Consumers Power Company	700
34	ST86-1406	04-21-86	Consumers Power Company	9,800
35	ST86-1474	04-23-86	Consumers Power Company	800
36	(3)	04-29-86	Tenneco Oil Company	16,000
37	ST86-1415	04-30-86	Consumers Power Company	2,465
38	ST86-1583	05-05-86	Consumers Power Company	3,025
39	ST86-1584	05-05-86	Consumers Power Company	1,100
40	(1)	05-06-86	Consumers Power Company	4,050
41	(1)	05-14-86	Consumers Power Company	400
42	(1)	05-14-86	Consumers Power Company	3,000
43	(2)	05-14-86	Citizens Energy Corp.	70,000
44	(1)	05-16-86	Consumers Power Company	350
45	(3)	05-20-86	Creole Gas Pipe Line	19,000
46	(1)	05-21-86	Consumers Power Company	710
47	(3)	05-21-86	Consumers Power Company	600
48	(2)	05-21-86	Consumers Power Company	1,000
49	(2)	05-28-86	Consumers Power Company	500
50	(3)	05-28-86	Consumers Power Company	200
51	(2)	05-22-86	Consumers Power Company	235
52	(3)	06-03-86	Consumers Power Company	670
53	(3)	06-03-86	Consumers Power Company	1,400

[1] This agreement has been filed pursuant to section 284.106(a) of the Regulations, no ST Docket Number has been received as yet.
[2] Service commenced, reporting requirements to be fulfilled within 30 days of commencement of service.
[3] Initial deliveries pending.

15. Panhandle Eastern Pipe Line Company

[Docket No. CP86-573-000]

June 23, 1986.

Take notice that on June 18, 1986, Panhandle Eastern Pipe Line Company (Panhandle), P. O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-573-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) for a limited-term certificate of public convenience and necessity and a request for temporary authority to transport natural gas on behalf of certain Shippers until the earlier of June 30, 1987, or thirty days from the date on which Panhandle accepts an Order No. 436 blanket certificate in accordance with the Commission's Regulations under Part 284, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle indicates that it is currently providing transportation services pursuant to section 311 of the

Natural Gas Policy Act of 1978. Without further transportation authority Panhandle would have to terminate these services on June 30, 1986. Certain Shippers, listed in the Appendix, have requested that Panhandle continue this service pursuant to section 7(c) of the NGA. Panhandle requests authority to provide such service until the earlier of June 30, 1987, or thirty days after Panhandle's acceptance of a blanket certificate under Part 284 of the Regulations.

Panhandle further requests a temporary certificate to perform these transportation services because of the emergency created by termination of the present section 311 authorizations.

Panhandle would charge these Shippers a rate as reflected in its Rates Schedule PT. Panhandle also requests authority to add and delete points of receipt subject to periodic reporting requirements.

Comment date: July 11, 1986, in accordance with Standard Paragraph F at the end of this notice.

(See attached Appendix.)

PANHANDLE EASTERN PIPE LINE COMPANY

Number	Docket No.	Contract date	Shipper	Volume Mcf/day
1	(3)	04-24-86	Michigan Gas Utilities Company	8,500
2	ST86-1500	04-24-86	Michigan Gas Utilities Company	1,500
3	ST86-1502	04-24-86	Michigan Gas Utilities Company	3,500
4	(1)	04-24-86	Citizens Gas & Coke Utility	5,500
5	ST86-1487	04-29-86	Panhandle Trading Company	190,000
6	ST86-1409	04-30-86	Illinois Power Company	8,000
7	ST86-1493	05-01-86	Citizens Gas Fuel Company	75
8	ST86-1483	05-01-86	Citizens Gas Fuel Company	10
9	ST86-1491	05-01-86	Citizens Gas Fuel Company	100
10	ST86-1492	05-01-86	Citizens Gas Fuel Company	50
11	ST86-1471	05-01-86	Citizens Gas Fuel Company	100
12	ST86-1478	05-01-86	Citizens Gas Fuel Company	110
13	ST86-1489	05-01-86	Citizens Gas Fuel Company	100
14	ST86-1484	05-01-86	Citizens Gas Fuel Company	210
15	ST86-1490	05-01-86	Citizens Gas Fuel Company	100
16	ST86-1486	05-01-86	Citizens Gas Fuel Company	100
17	ST86-1485	05-01-86	Citizens Gas Fuel Company	430
18	ST86-1479	05-01-86	Citizens Gas Fuel Company	160
19	ST86-1481	05-01-86	Citizens Gas Fuel Company	400
20	ST86-1472	05-01-86	Citizens Gas Fuel Company	15
21	ST86-1473	05-01-86	Citizens Gas Fuel Company	30
22	ST86-1469	05-01-86	Citizens Gas Fuel Company	20
23	ST86-1477	05-01-86	Citizens Gas Fuel Company	20
24	ST86-1488	05-01-86	Citizens Gas Fuel Company	320
25	ST86-1475	05-01-86	Citizens Gas Fuel Company	50
26	ST86-1476	05-01-86	Citizens Gas Fuel Company	20
27	ST86-1480	05-01-86	Citizens Gas Fuel Company	30
28	ST86-1461	05-01-86	Kokomo Gas Fuel Company	3,000
29	ST86-1458	05-02-86	Kokomo Gas Fuel Company	3,000
30	ST86-1412	05-02-86	Kokomo Gas & Fuel Company	200
31	ST86-1456	05-02-86	Delhi Gas Pipeline Corp.	4,000
32	ST86-1457	05-02-86	Illinois Power Company	5,800
33	(3)	05-06-86	Delhi Gas Pipe Line Compny	80,000
34	ST86-1580	05-06-86	Kokomo Gas Fuel Company	450
35	(1)	05-06-86	Kokomo Gas & Fuel Company	300
36	ST86-1581	05-06-86	Kokomo Gas & Fuel Company	150
37	(1)	05-07-86	City of Fulton	330
38	(1)	05-07-86	Great River Gas Fuel Company	200
39	(1)	05-07-86	Great River Gas Fuel Company	110
40	ST86-1578	05-07-86	Illinois Power Company	400
41	(3)	05-07-86	Illinois Power Company	580
42	(1)	05-08-86	Battle Creek Fuel Company	5,000
43	(1)	05-08-86	Ohio Gas Corporation	200
44	(1)	05-08-86	Ohio Gas Corporation	60
45	(1)	05-08-86	Ohio Gas Corporation	220
46	(1)	05-08-86	Ohio Gas Corporation	100
47	(1)	05-08-86	Ohio Gas Corporation	100
48	(1)	05-08-86	Ohio Gas Corporation	300
49	(1)	05-08-86	Ohio Gas Corporation	10
50	(1)	05-08-86	Ohio Gas Corporation	550
51	(1)	05-08-86	Ohio Gas Corporation	30
52	(1)	05-08-86	Ohio Gas Corporation	20
53	(1)	05-08-86	Ohio Gas Corporation	30
54	(1)	05-08-86	Ohio Gas Corporation	10
55	(1)	05-08-86	Ohio Gas Corporation	350
56	(1)	05-08-86	Ohio Gas Corporation	90
57	(1)	05-08-86	Ohio Gas Corporation	10
58	(1)	05-09-86	Illinois Power Company	1,200
59	(1)	05-09-86	Illinois Power Company	6,000
60	(3)	05-09-86	Illinois Power Company	270
61	(3)	05-12-86	Michigan Gas Utilities Company	20,000
62	(3)	05-23-86	Consumers Power Company	3,000
63	(3)	05-14-86	Consumers Power Company	1,400
64	(3)	05-14-86	Consumers Power Company	500
65	(3)	05-14-86	Consumers Power company	710
66	(3)	05-14-86	Consumers power Company	450
67	(3)	05-14-86	Consumers Power Company	5,500
68	(3)	05-05-86	Kansas Pipe Line Company	60,000
69	(3)	05-15-86	Illinois Power Company	2,500
70	(3)	05-15-86	Consumers Power Company	1,640
71	(1)	05-14-86	Baltimore Gas and Electric	15,000
72	(1)	05-16-86	Illinois Power Company	3,500
73	(1)	05-16-86	Illinois Power Company	416
74	(2)	05-19-86	Missouri Public Service Co.	2,000

PANHANDLE EASTERN PIPE LINE COMPANY—Continued

Number	Docket No.	Contract date	Shipper	Volume Mcf/day
75	(2)	05-19-86	Missouri Public Service Co	600
76	(3)	05-19-86	Richmond Gas Corporation	437
77	(3)	05-20-86	Consumers Power Company	22,000
78	(1)	05-21-86	Northern Indiana Fuel & Light	635
79	(3)	05-20-86	Quivera Gas Company	2,000
80	(1)	05-20-86	Public Service Company of Colo	8,000
81	(3)	05-28-86	Consumers Power Company	2,800
82	(3)	05-29-86	Consumers Power Company	200
83	(3)	05-23-86	Consumers Power Company	1,200
84	(2)	05-27-86	Battle Crseek Gas Company	5,000
85	(2)	05-29-86	Indiana Gas Company	2,100
86	(2)	05-29-86	Indiana Gas Company	2,000
87	(2)	05-29-86	Battle Creek Gas Company	5,000
88	(2)	05-29-86	Battle Creek Gas Company	7,000
89	(3)	05-28-86	Indiana Gas Company	8,000
90	(3)	06-02-86	Illinois Power Company	2,750
91	(3)	06-03-86	Consumers power Company	9,200
92	(2)	06-03-86	Western Gas Supply	1,000

[1] This agreement has been filed pursuant to Section 284.106(a) of the Regulations, no ST Docket Number has been received as yet.
[2] Service commenced, reporting requirements to be fulfilled within 30 days of commencement of service.
[3] Initial deliveries pending.

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's procedural rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-14639 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF86-797-000]

Avtex Fibers Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 23, 1986.

On June 5, 1986, Avtex Fibers Inc. (Applicant), of P.O. Box 1169 Kendrick Lane, Front Royal, Virginia 22630 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at Front Royal, Virginia. The facility consists of a steam generator and a turbine-generator. The exhaust steam from the turbine is used for process and space heating in the fiber manufacturing plant. The maximum net electric power production capacity of the facility is 3,000 kW. The primary energy source is coal. The turbine-generator was first installed in 1939 and rebuilt in 1986.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-14641 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF86-776-000]

M&M/Mars, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 23, 1986.

On June 4, 1986, M&M/Mars, Inc. (Applicant), of High Street, Hackettstown, New Jersey 07840, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at Applicant's processing plant in Hackettstown, New Jersey. The facility consist of natural gas fired boilers and a steam turbine generator. Steam from the facility is used for processing candy and heating water for domestic uses. The electric power production capacity of the facility is 1.5 MW. The facility became fully operational in May 1984.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North

Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-14642 Filed 6-27-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Pre-Freshman Engineering Program (PREP)

AGENCY: Energy Research Office, Energy.

ACTION: Program solicitation announcement.

SUMMARY: The purpose of this notice is to announce the availability of the PREP solicitation, to identify the institutions which will be eligible for this grant program, and to inform potential applicants of the closing date and location for submission of applications for awards under this program.

SUPPLEMENTARY INFORMATION:

Background

The Department of Energy (DOE) is concerned with the supply of science and engineering professionals to perform its R&D mission and is authorized in the Energy Reorganization Act of 1974 to ". . . assure an adequate supply of manpower for the accomplishment of energy research and development programs by sponsoring and assisting in education and training activities in postsecondary institutions, vocational schools, and other institutions. . . .", 42 U.S.C., 5813 (11).

Specifically, DOE's concern is based on the consideration that the future supply of engineering manpower is threatened by two factors: fewer students enrolling in science and mathematics courses in high school and fewer students available to join the science and engineering pool due to declining birth rates. Students who have completed the ninth grade in high school often decide not to take another science or mathematics course. Once the traditional math/science sequence is disrupted, it is too late for students to meet the minimum requirements for admission to college and university engineering programs.

The primary purpose of PREP will be to alleviate manpower shortages in engineering by preparing and guiding high school students in the selection of college-preparatory courses in science and mathematics. In the past 13 years, one hundred and eighty-two PREP projects have been funded. These projects have reached over twelve thousand socially or economically disadvantaged high school students. Pending Congressional action, DOE intends to commit about $350,000 for the Pre-Freshman Engineering Program for fiscal year 1987. DOE invites all qualified universities (see following section) to write for a copy of its Pre-Freshman Engineering Program solicitation, DOE/ER-0271, Notice of Program Announcement Number DE-PS05-87ER75266.

Eligibility and Limitations

The overall intent of the program is to increase the number of engineers who graduate from college, and who will continue to play critically important roles in the Nation's overall energy programs. Since PREP is designed to accomplish this purpose by preparing high school students for, and guiding them in, the selection of college-preparatory courses in science and mathematics, institutions which offer engineering-degree programs are deemed most qualified. Accordingly, pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7 (b), applications will be accepted only from colleges and universities which grant engineering degrees at the baccalaureate level or from institutions which have formal dual-degree pre-engineering programs with institutions granting engineering degrees at the baccalaureate level. (If applying under the later category, specific information should be given regarding the formal dual-degree program. Other institutions interested in participating in PREP may do so through cooperative projects with engineering degree-granting institutions (in this case, the application must be submitted by the engineering degree-granting institution).

Application Forms

Program solicitations are expected to be ready for mailing by August 15, 1986. Applications must be prepared and submitted in accordance with the instructions and forms included in the program solicitation. Copies of this solicitation may be obtained by writing to: Division of University and Industry Programs, ER-44, Office of Field Operations Management, Office of Energy Research, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Telephone Number: (202) 252-1634.

Closing Date for Submission of Applications

To be eligible, applications must be received by the Department of Energy by 4:30 p.m., October 30, 1986.

FOR FURTHER INFORMATION CONTACT: All communications or questions regarding this program solicitation should be directed to: PREP Contracting Officer; Procurement and Contracts Division, Oak Ridge Operations; Department of Energy; Oak Ridge, Tennessee 37831; Telephone Number: (615) 576-7564.

(Catalog of Federal Domestic Assistance No. 81.047, Pre-Freshman Engineering Program).

Issued in Washington, DC on June 24, 1986.

Alvin W. Trivelpiece,

Director, Office of Energy Research.

[FR Doc. 86-14617 Filed 6-27-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of May 12 through May 16, 1986

During the week of May 12 through May 16, 1986, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearins and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published losse leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 20, 1986.

Remedial Order

Traco Petroleum Co., 5/12/86; HRO-0212

The Office of Hearings and Appeals (OHA) issued a Remedial Order to Traco Petroleum Co., a crude oil reseller which OHA determined had violated the "layering" regulation. The Remedial Order requires the firm to refund $5,547,691.32 plus interest. In

its decision, OHA rejected Traco's arguments that the layering regulation was improperly promulgated and found that the firm did not provide any service traditionally and historically associated with the resale of crude oil. The decision examines in particular a number of Traco's individual transactions which illustrate how the firm failed to comply with the layering rule.

Motion for Discovery

L.B. White, 5/14/86; HRH-0032, HRD-0271

L.B. White (White) filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with his Statement of Objections to a Proposed Remedial Order (PRO) issued jointly to Brio Petroleum, Inc. (Brio) and White on November 20, 1984. In the PRO, ERA alleges that White and Brio violated the "anti-layering" provisions of 10 CFR 212.186, or in the alternative, the "permissible average markup" rule of 10 CFR 212.183. In his Motion for Discovery, White sought: (1) ERA's production of all documents on which ERA relied in support of the factual allegations set forth in the PRO; and (2) depositions of DOE personnel who conducted the audit of Brio. The OHA denied White's Motion for Discovery since it was overly broad and based upon generalized assertions of need and relevance. In his Motion for Evidentiary Hearing, White alleged that a hearing was needed to: (1) Show the lack of factual evidence as to his personal liability; (2) cross-examine DOE personnel in support of his defense; (3) gain access to information in Brio's records held by a trustee in bankruptcy; (4) establish Brio's conduct as a bona-fide reseller; and (5) show his personal involvement and participation in Brio's business activities. The OHA granted White's Motion for Evidentiary Hearing limited to the issue of his individual participation in the business of Brio during the period in which the firm was audited by ERA. The OHA also gave White an opportunity to submit additional documentation regarding the services Brio provided in transactions concerned by the PRO.

Implementation of Special Refund Procedures

E.B. Lynn Oil Co., 5/13/86; HEF-0064

This Decision establishes procedures for the distribution of funds totalling $50,174 obtained as a result of a Consent Order entered into between the DOE and E.B. Lynn Oil Company. The Decision sets forth refund application procedures for reseller customers who purchased motor gasoline from Lynn during the period covered by the Consent Order: May 1, 1979 through April 30, 1980. Specific information regarding the data to be included in refund applications is discussed in the Decision.

Refund Applications

Earth Resources Co./Lubricants, Incorporated, Et Al., 5/5/86; RF239-1, et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed by resellers and retailers of Earth Resources Company/Delta Refining Company petroleum products. The firms applied for refunds based on the procedures outlined in *Earth Resources Company*, 13 DOE ¶ 85,384 (1986), governing the disbursement of settlement funds received from Earth Resources pursuant to a 1981 consent order. Each of the four applicants either qualified for a refund below the $5,000 small claims threshold, or chose to limit its claim to the threshold level. The DOE concluded that the applicants should receive a total refund of $25,227, consisting of $16,636 in principal and $8,591 in accrued interest.

Eddy Refining Co. and Key Oil Co./Jack Ritter Inc. Oil Co., 5/14/86; RF145-4

The DOE approved the Application for Refund filed by Jack Ritter Inc. Oil Company, a reseller of Eddy/Key petroleum products, pursuant to the refund procedures set forth in *Eddy Refining Co./Key Oil Co.*, 12 DOE ¶ 85,167 (1985). In considering this application, the DOE concluded that Jack Ritter should receive a refund of $148, including accrued interest.

Field Oil Co./Avis Rent-A-Car, Et. Al., 5/13/86; RF173-13, Et. Al.

The DOE approved Applications for Refund filed by Avis Rent-A-Car, Delbert Jensen, and Harry Duckworth in connection with a consent order fund made available by Field Oil Company. Each applicant provided documentation of its purchase volumes of Field motor gasoline, requested a refund below the $5,000 threshold level, and was identified as an allegedly overcharged customer in the Field audit file. In accordance with the procedures established in the Field special refund proceeding, the DOE determined that each applicant should receive a refund based on a prorated portion of the alleged Field overcharges. The total amount of refunds approved in this Decision is $1,893 ($1,021 principal plus $872 interest).

Gulf Oil Corp./Dixie Gas, Inc., Et. Al., 5/15/86; RF40-1765,-Et. Al.

Dixie Gas, Inc. filed an Application for Refund seeking a portion of the funds obtained by trhe DOE through a Consent Order with Gulf Oil Corporation. In an October 29, 1985 Proposed Decision, the DOE tentatively denied Dixie Gas Application for Refund. Subsequent to that Proposed Decision, customers of Dixie Gas applied for Gulf refunds.

In the instant proceeding, the DOE found that Dixie Gas had not shown that it did not pass through Gulf's alleged overcharges. The DOE also found that eleven customers of Dixie's each of whom bought Gulf propane from Dixie, had shown that they would not have been required to reduce their prices by amounts equal to the Gulf refunds they were seeking. Accordingly, Dixie Gas' Application for Refund was denied, and the Applications of eleven of its customers were granted. Refunds totalling $52,170 in principal and $10,263 in interest were distributed pursuant to this Decision.

Gulf Oil Corp./G.W. Mothershed Oil Co., Inc., 5/16/86; RF40-845

The DOE granted an Application for Refund filed by G.W. Mothershed Oil Company, Inc. from the Gulf Oil Corporation consent order fund. Mothershed, a consignee of Gulf motor gasoline located in Alabama, demonstrated that its individual market share declined in relation to Alabama's overall gasoline consumption during the consent order period. The DOE therefore determined that Mothershed was injured by Gulf's allegedly uncompetitive prices. Mothershed's refund was calculated by multiplying the number of gallons of gasoline Gulf consigned to it during the consent order period, Mothershed's loss of potential sales, and the volumetric refund amount. Mothershed received $3,101 ($2,591 in principal and $510 in interest). Because Mothershed was unable to make a similar showing for its consignments of middle distillates, that portion of its claim was dismissed.

Gulf Oil Corp./Irene Prisco, et al., 5/13/86; RF40-65, et al.

The DOE approved Applications for Refund filed by 68 end-users of products purchased indirectly from Gulf Oil Corporation. In accordance with the procedures established in the Gulf Special Refund Proceeding, each applicant received a refund based on its estimated purchase volumes of Gulf products during the consent order period. The total amount of refunds approved in this Decision is $4,098 ($3,427 principal plus $671 interest).

Gulf Oil Corp./Clayton Brasher Solar Oil Co., Inc., 5/14/86; RF40-524. RF40-1714

The DOE granted refunds from the Gulf Oil Corporation deposit fund to two purchasers of Gulf refined petroleum products. Both refund applicants are retailers who demonstrated that they would not have been required to reduce their selling prices to their customers by the amount of the refund received. The refund to these firms totaled $7,378.

Gulf Oil Corp./Vern's E-Z-Go Station #17, et al., 5/15/86; RF40-00087, et al.

The DOE approved nine Applications for Refund filed by retailers of Gulf Oil Corporation petroleum products. Each firm applied for a refund based on the procedures outlined in Gulf Oil Corp., 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. In accordance with those procedures, each applicant demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund claimed. After examining the applications, the DOE concluded that they should receive a total refund of $15,226, consisting of $12,722 in principal and $2,504 in interest.

Leonard E. Belcher, Inc./Central Oil Co., A.R. Sandri, Inc., Lacasse Heating & Cooling Supply Co., Inc., 5/15/86; RF227-15, RF227-38; RF227-42

The DOE approved Applications for Refund filed by three resellers and retailers of Leonard E. Belcher, Inc. (Belcher) No. 2 fuel oil that purchased the product directly from Belcher. Each applicant claimed a refund exceeding the $5,000 threshold amount covered by the presumption of injury for small claims. Therefore, in accordance with the procedures outlined in *Leonard E. Belcher, Inc.*, 13 DOE ¶ 85,348 (1986), each applicant submitted evidence that it maintained adequate cost banks during the consent order period and that it did not pass

through the alleged overcharges to its customers. After examining the evidence submitted by the applicants, the DOE concluded that the applicants should receive a total of $88,105 ($71,578 principal plus $16,527 interest).

Little America Refining Co./Jochem Oil Co., 5/14/86; RF112–177

The DOE denied an Application for Refund filed by Jochem Oil Company (Jochem), an indirect purchaser and reseller of products covered by a consent order the agency entered into with Little America Refining Company (Larco). Jochem purchased Larco product through Direct Sales Tire Co., Inc. (Direct Sales). In a previous decision, the DOE had granted Direct Sales a refund based on a finding that Direct Sales had absorbed all of the additional costs associated with Larco's alleged overcharges. Therefore, the DOE determined that Jochem, as a customer of Direct sales, could not have incurred any injury as a result of Larco's alleged overcharges. Accordingly, Jochem's Application for Refund was denied.

OKC Corp./Missouri Self Service Gas Co., 5/15/86; RF13–23

The DOE issued a Decision and Order concerning an Application for Refund filed by Missouri Self Service Gas Co. (MSS), in which MSS sought a portion of the settlement fund obtained by the DOE through a consent order entered into with OKC Corporation (OKC). MSS also advanced a refund claim on behalf of an affiliated firm, Mutz Oil Co. Before evaluating the MSS application, the DOE noted that MSS had received and retained an inadvertent overpayment in excess of $45,000 in another special refund proceeding. *Panhandle Eastern Pipeline Co./Missouri Self Service Gas Co.*, 11DOE ¶ 85,102 (1983). Since MSS has repeatedly refused to comply with a DOE directive to refund the overpayment, the DOE determined that any refund to which MSS was entitled to receive in the OKC proceeding would be applied against the overpayment received by MSS from the Panhandle escrow account. Upon completing its evaluation of the MSS application, the DOE determined that under the standards established in *Office of Enforcement: In the Matter of OKC Corporation*, 9 DOE ¶ 82,551 and (1982), MSS would have been entitled to receive a total refund of $22,491 ($13,518 in principal plus $8,973 of interest). The DOE then provided MSS with 10 days from the date of issuance of the Decision and Order in which to show cause why the refund it would otherwise be entitled to receive should not be transferred to the Panhandle proceeding escrow account as a partial offset against the overpayment MSS received in that proceeding. Pending receipt of such a showing by MSS or a further proceeding. Pending receipt of such a showing by MSS or a further determination by the DOE, the MSS refund was transferred to a separate, interest bearing escrow account.

Pioneer Corp./E.I. DuPont De Nemours & Co., 5/12/86, RF52–4

E.I. du Pont de Nemours & Company filed an Application for Refund, seeking a portion of the funds remitted by Pioneer Corporation pursuant to a consent order that Pioneer entered into with the DOE. Du Pont purchased Pioneer propane and ethane from Warren Petroleum Company. In a Decision and Order issued on April 30, 1986, the DOE determined that Warren should receive a refund equal to 31.541 percent of the Pioneer fund allocable to Warren, and that remaining portion, 68.459 percent of Warren's allocable share, should be distributed to indirect purchasers. Since Du Pont was an end-user of the products for business purposes not subject to DOE regulations, the firm was granted a refund without making a detailed showing of injury. The amount of refund granted to Du Pont equaled its purchase volume times the per gallon refund amount times 68.459 percent.

Saber Energy, Inc./Mississippi Power Co., 5/15/86; RF192–17

The DOE granted an Application for Refund filed pursuant to the procedures outlined in *Saber Energy, Inc.*, 13 DOE ¶ 85,134 (1985). Mississippi Power is a regulated public utility and was an end-user of Saber Energy products. It agreed to notify all appropriate ratemaking bodies of the amount of the refund received. After examining the evidence and supporting documentation, the DOE concluded that Mississippi Power was eligible to receive the full volumetric refund amount for all of its purchases. The total amount of its refund was $6,208, including interest.

Saber Energy, Inc./Tesoro Petroleum Co., RF192–6;
Tenneco Oil Co., 5/12/86, RF192–10

The DOE issued a Decision and Order concerning two Applications for Refund filed pursuant to the procedures outlined in *Saber Energy, Inc.*, 13 DOE ¶ 85,134 (1985). Both Tesoro and Tenneco applied for refunds of greater than $5,000 and were therefore required to demonstrate that they had cost banks greater than the amount of the refund, and that they were injured as a result of the overcharges. After examining the evidence submitted, the DOE concluded that both firms had demonstrated that they had cost banks and that both firms had been injured in some of the months of the consent order period. Accordingly, both firms were granted partial refunds. The total amount of the refunds granted was $18,527, including interest. Part of Tenneco's claim, based on spot purchases of residual fuel and motor gasoline, was denied because Tenneco failed to refute the presumption that these purchases were made because they would be advantageous to Tenneco.

South Hampton Refining Co./City Public Service, 5/15/86, RF230–1

The DOE issued a Decision and Order concerning an Application for Refund filed by City Public Service of San Antonio, Texas, a consumer of South Hampton Refining Company petroleum products. The applicant applied for a refund based on the procedures outlined in *South Hampton Refining Company*, 13 DOE ¶ 85,328 (1985), governing the disbursement of settlement funds received from South Hampton pursuant to a 1980 consent order. Although City Public Service made only spot purchases of South Hampton products, the DOE determined that the applicant should not be required to rebut the general presumption of non-injury for spot purchases since, as a regulated utility, the firm would pass through all refunds to its customers. The DOE concluded that City Public Service should receive a refund of $5,359, consisting of $3,061 in principal and $2,298 in accrued interest.

Standard Oil Co. (Indiana)/Marathon Petroleum Co., 5/16/86, RF21–12581

The Department of Energy issued a Decision and Order approving an Application for Refund filed by Marathon Petroleum Co. in the Amoco special refund proceeding. The amount of Marathon's refund had been approved in *Standard Oil Co. (Indiana)/Marathon Petroleum Co.*, 12 DOE ¶ 85,007 (1984); however, the refund was placed in escrow pending termination of several enforcement proceedings involving Marathon. The escrowed refund was now sent to Marathon because the firm settled most of those outstanding enforcement proceedings. The refund issued in this Decision and Order consists of $112,849 in principal and all of the interest which has accrued on that month while in the escrow account.

Standard Oil Co. (Indiana)/Strohl Oil Co., et al, 5/14/86, RF21–12589, et al.

The DOE issued a Decision and Order correcting the amount of interest previously granted 14 firms from the Standard Oil Company (Indiana) consent order firm. The DOE determined that these firms should be granted an additional $2,131 in interest.

Willis Distributing Co., Inc./Highway Oil Co., Inc., 5/14/86, RF41–16

Highway Oil Company, Inc. (Highway) filed an Application for Refund in which the firm sought a portion of the funds obtained by the DOE through a Consent Order with Willis Distributing Company, Inc. Highway was awarded a refund of $59,507.89 ($30,714.78 principal plus $28,793.11 interest).

Dismissals

The following submissions were dismissed:

Name and Case No.

Artwal Gulf Service—RF40–2314
Atlantic Richfield Co.—KRO–0170
Basham's Gulf Service #2—RF40–2320
Basham's Gulf Service #2—RF40–2321
Biddle Gulf—RF40–2465
Bill's Service Station—KF40–2317
Butler's Gulf—RF40–2262
Bridges Gulf—RF40–2264
C&L Gulf—RF40–2336
Calco Mfg. Co., Inc.—RF40–36
Cecil A. Stewart—RF40–688
Charlotte Street Gulf—RF40–2339
College Gulf—RF40–2269
Concord Petroleum Corp. and Paul C. Elliot—KRO–0180
Cross Road Store—RF40–2275
Don Luffy Gulf Service—RF40–2487
Edward E. Griffiths—RF40–438
Edward J. Palmer—RF40–2605
Finn's Gulf Service Station—RF40–2427
George P. Grigiss—RF40–1939

Greg's Cove Lake Gulf—RF40–2280
Holiday Gulf—RF40–2281
Houchen's Gulf Service Center—RF40–2371
Joe's Gulf Service—RF40–2204
John T. Groses Gulf Service—RF40–2434
Johnny Taylor's Gulf—RF40–2207
Johnny's Service Station—RF40–2205
Joseph Gangemi—RF40–1248
Julius Beck—RF40–559
Keels Service Station—RF40–2482
L.J. Roger's Gulf Service—RF40–2425
Lake Air Gulf—RF40–2819
Leader Service Corp.—RF40–2359
Liberty Servicenter, Inc.—RF40–2290
Longie's Gulf Service—RF40–2483
Mary Cabrelli—RF40–1849
McCormick and Sons Oil Co., Inc.—RF13–42
Pace's Gulf Service Station—RF40–2411
Palmer's Gulf Service—RF40–2458
Reynolds Interstate Gulf—RF40–2471
Ronald W. Brown, Jr.—RF40–1681
Russell's Gulf Service—RF40–2357
Sanders Amoco—RF21–12606
Shamrock Gulf—RF40–2484
Short's Service Station—RF40–2479
Soles Brothers Gulf—RF40–2420
Southard Oil—RF21–12605
State of Wyoming—RF40–1185
Stephen V. Geddes Gulf—RF40–2454
Stockton Gulf Station—RF40–2499
Stone's Gulf Station—RF40–2481
Taki Gulf—RF40–2441
Terry's Gulf—RF40–2308
Vestal Gulf Station—RF40–2361
Village Service Station—RF40–2417.

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Issuance of Decisions and Orders; Week of May 19, through May 23, 1986

During the week of May 19 thorugh May 23, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 20, 1986.

Appeal

Neal R. Gross and Co., Inc., 5/23/86; KFA–0030

Neal R. Gross and Co., Inc. filed an Appeal from a partial denial by the Office of Procurement Operations of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Office correctly applied Exemption 4 and withheld per page price information from a reporting contract for classified meetings of the International Energy Agency. In addition, the DOE found that release of information under FOIA Exemption 4 cannot be based on the definitions of the words "cost" or "price," but must be governed by the applicable law. Accordingly, the Appeal was denied.

Requests for Exception

County Fuel Co., Inc., 5/22/86; HEE–0144

County Fuel Company, Inc. filed an Application for Exception from the provisions of 10 CFR 212.93 (a) & (b) in which the firm sought to be excused from its obligation to refund overcharges of $197,305.49, plus interest. In considering County Fuel's request, the DOE found that the firm failed to file a timely application and, moreover, failed to demonstrate it merited retroactive exception relief. Accordingly, exception relief was denied. Important issues that are considered in this Decision and Order are: the application of the doctrine of laches to Applications for Exception, and hardship to third parties as a possible ground for retroactive exception relief.

Ohr's Fuel, 5/21/86; KEE–0012

Ohr's Fuel filed an Application for Exception in which the firm sought relief from its obligation to submit Form EIA–782B, entitled "Reseller/Retailer's Monthly Petroleum Product Sales Report." In considering the applicant's request, the DOE found that Ohr's provided no evidence to support its claim that it was particularly adversely affected by the requirement that it file Form EIA–782B, despite several attempts by the OHA to acquire the information necessary to document the firm's claim. The application therefore was denied.

Phelps Energy Co., Inc., 5/21/86; HEE–0169

Phelps Energy Company, Inc. (Phelps) filed an Application for Exception in which the firm sought relief from its obligation to submit Form EIA–782B, entitled "Reseller/Retailer's Monthly Petroleum Product Sales Report." In its application the firm described conditions which, if demonstrated, would clearly warrant exception relief. In considering the applicant's request, however, the DOE found that Phelps failed to provide information necessary to substantiate its claim. The application for exception relief was therefore denied.

Schaal Oil Co., 5/21/86; KEE–0025

Schaal Oil Company (Schaal) filed an Application for Exception in which the firm sought relief from its obligation to submit Form EIA–782B, entitled "Reseller/Retailer's Monthly Petroleum Product Sales Report." In considering the applicant's request, the DOE found that, although the duration of Schaal's participation in the reporting survey apparently exceeds that of most firms, the length of a firm's participation in the survey does not in itself constitute grounds for exception relief. Accordingly, exception relief was denied. However, the DOE noted that, absent any distinguishing factors which would warrant its extended participation, the determination would be reviewed if Schaal is still in the survey pool after the next EIA selection process.

Supplemental Order

Southwestern Refining Co., 5/23/86; BYX–0200

On May 23, 1986, the Office of Hearings and Appeals (OHA) issued a Supplemental Order to an April 11, 1983 Proposed Decision and Order (PDO) to the Southwestern Refining Co., Inc. (Southwestern). The PDO, a year-end review of Southwestern's entitlements exception relief, had determined that Southwestern was entitled to relief from its entire entitlements purchase obligation for a portion of its fiscal year—July 1980 through January 1981. The Supplemental Order reviewed the same financial data contained in the PDO, except that the review period was limited to July through December 1980 because of the DOE policy not to issue the January 1981 Entitlements Notice. After again reviewing the firm's financial results, the DOE concluded that in the absence of any exception relief, the firm would be entitled to $571,222 of exception relief, which was the firm's Modified 1975 NOOSR ceiling for exception relief. Since the firm previously had received $222,051 of exception reief during the July–December period, the DOE determined that the firm was still entitled to $349,170 of relief. Pursuant to an order of the Federal Energy Regulatory Commission, *Southwestern Refining Co., Inc.*, 26 FERC ¶ 62,262 (1984), the DOE also netted both the value of Southwestern's 1980 entitlements purchase obligations upon which the firm defaulted and the value of the 1980 entitlements that it was unable to sell against the sales obligation that the firm received in the current partial year-end review. Consequently, Southwestern received a final netted entitlements dispense (purchase) obligation of $187,941.23. According to DOE policy, that dispense obligation will not be enforced. *See* 50 FR 1919 (1985).

Implementation of Special Refund Procedures

Windsor Gas Corp., KEF–0002; Union Oil Co. of Cal., KEF–0004; Timco Oil Co., 5/22/86; KEF–0006

The Office of Hearings and Appeals (OHA) issued a Decision and Order establishing procedures to distribute $4,652,548.54 obtained from three crude oil producers: Windsor Gas Corp., Union Oil Co. of California, and Timco Oil Co. The OHA determined that distribution of the monies received from Windsor, Union, and Timco will be governed by the Policy of Restitution for Crude Oil Overcharges. That policy states that all overcharge funds associated with crude oil miscertifications should be held in escrow pending Congressional action.

Refund Applications

Allied Materials Corp., and Excel Corp./ McCormick and Sons Oil Co., Inc., 5/20/86; RF194–8

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller purchaser of Allied Materials Corporation/Excel Corporation petroleum products. The applicant applied for a refund based on the procedures outlined in *Allied Materials Corporation and Excel Corporation*, 13 DOE ¶ 85,095 (1985), governing the disbursement of settlement funds received from Allied/Excel pursuant to a 1982 consent order. Since the applicant qualified for a refund below the $5,000 small claims threshold, it was presumed to have been injured by the alleged overcharges. The DOE concluded that the applicant should receive a refund of $971, consisting of $686 in principal and $285 in accrued interest.

Aminoil U.S.A., Inc./The Rural Natural Gas Company, 5/21/86; RF139–5

The OHA issued a Decision and Order concerning an Application for Refund filed by The Rural Natural Gas Company (Rural), a retailer of natural gas liquid products, for a portion of the consent order fund made available by Aminoil U.S.A., Inc. In its determination, the OHA found that Rural failed to show that it incurred a disproportionate share of the allged Aminoil overcharges, and therefore applied the competitive disadvantage methodology to calculate the firm's refund amount. The OHA found that Rural paid above market average costs for the NGLPs which it purchased from Aminoil and, using the three-step competitive disadvantage methodology, it was determined that Rural should receive 100 percent of its allocable share or $258,450, representing $158,291 in principal and $100,159 in accrued interest.

Coline Gasoline Corp./Indiana, 5/22/86; RQ183–291

The Office of Hearings and Appeals (OHA) issued a Decision and Order regarding Indiana's second-stage refund plan for use of Coline Gasoline Corp. escrow funds. The OHA approved Indiana's restitutionary plan to use $3,678 in Coline funds to supplement funding of a loan subsidy and matching grant weatherization program.

Conoco Inc./Huffman Oil Co., Inc., et al., 5/23/86; RF220–20, et al.

The DOE issued a Decision and Order concerning twenty-five Applications for Refund filed by Huffman Oil Co., Inc., *et al.* Each of the applicants had purchased refined petroleum products from Conoco Inc., and sought a portion of the fund obtained by the DOE through a consent order with Conoco. All of the twenty-five firms applied for refunds based upon the procedures for filing small claims outlined in *Conoco Inc.*, 13 DOE ¶ 85,316 (1985). After examining the applications, the DOE concluded that each of the twenty-five firms should receive a refund, based on its volumetric per gallon refund amount, as described in the Appendix to the Decision. The total amount of refunds granted was $37,516.

Earth Resources Co/Henderson Oil Co., et al., 5/20/86; RF 239/9, et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by four purchasers of Earth Resources Company petroleum products. The applicants applied for refunds based on the procedures outlined in *Earth Resources Company*, 13 DOE ¶ 85,384 (1986), governing the disbursement of settlement funds received from Earth Resources pursuant to a 1981 consent order. All of the applicants were either ultimate consumers or qualified for refunds below the $5,000 small claims threshold, and therefore all were presumed to have been injured by the alleged overcharges. The DOE concluded that the applicants should receive a total refund of $28,456, consisting of $18,726 in principal and $9,730 in accrued interest.

Good Hope Refineries/Texaco Inc., Saber Energy, Inc./Texaco Inc., 5/23/86. RF189–3, RF192/1

The DOE issued a Decision and Order concerning Applications for Refund filed by Texaco Inc. on the basis of the procedures outlined in *Good Hope Refineries*, 13 DOE § 85,105 (1985) and *Saber Energy, Inc.*, DOE § 85,134 (1985). Texaco was a spot purchaser from both firms. After examining the evidence and supporting documentation, the DOE concluded that Texaco had failed to refute the presumption in both *Saber* and *Good Hope* that spot purchasers were not injured by the alleged violations of the consent order firms. Accordingly, both applications were denied.

Gulf Oil Corp./Ripley & Fletcher Co., et al., 5/20/86; RF40–631, et al.

The Department of Energy issued a decision granting a refund to Ripley & Fletcher Company in accordance with the Gulf Oil Corp. special refund procedures. Because Ripley & Fletcher sold motor gasoline at a negative margin on May 15, 1973, the firm was limited under the pricing regulations to no profit margin during the consent order period. However, the regulations were amended several times after their initial promulgation and ultimately permitted retailers like Ripley & Fletcher to charge up to an additional three cents per gallon on the account for actual non-product cost increases. Since Ripley & Fletcher did not raise its prices by the full three cents permitted effective March 1, 1974, the firm was granted a refund to the volumes that it purchased after that date. Including accrued interest, this refund totalled $63,105.

Ideal Gas, Inc./Petrolane, Inc., 5/23/86; RF186–3

The DOE issued a Decision and Order concerning an Application for Refund filed by Petrolane, Inc. in connection with a consent order fund made available by Ideal Gas, Inc. Petrolane, a reseller of propane, provided evidence that it purchased propane from Ideal during the consent order period, but did not meet the criteria established in the Ideal Special Refund Proceeding for a refund above the $5,000 threshold level. Accordingly, the DOE granted the firm a refund based on the $5,000 threshold amount. The total refund amount approved in this Decision is $9,079 ($5,000 principal plus $4,079 interest).

Leese Oil Co./School District No. 25, 5/22/86; RF211–9

The DOE issued a Decision and Order concerning an Application for Refund filed by School District No. 25 in connection with a consent order fund made available by Leese Oil Company. The School District, an end-user of motor gasoline, provided evidence that it purchased motor gasoline from Leese. In accordance with the procedures established in the Leese Special Refund Proceeding, the DOE determined that the School District should receive a refund based on the estimated volume of motor gasoline it purchased from Leese during the consent order period. The total refund amount approved in this Decision is $897 ($756 principal plus $141 interest).

Little America Refining Co./University Gas, 5/21/86; RF112–173

The DOE issued a Decision and Order concerning an Application for Refund filed by University Gas, an indirect purchaser and reseller of products covered by a consent order the agency entered into with Little America Refining Company (Larco). University Gas purchased its Larco product through Finest Oil Company (Finest). In a previous decision, the DOE granted Finest its full volumetric share for its Larco purchases, based on the small claims presumption of injury. Nevertheless, the DOE determined that it would be inequitable to deny University Gas a refund, because no specific finding had been made in the earlier decision as to what portion of Larco's alleged overcharges Finest may have passed through to its customers. Accordingly, the DOE granted University Gas a refund of $193, representing $128 principal and $65 in interest.

Mapco, Inc./Enterprise Products Co., 5/23/86; FR108–7

Enterprise Products Company (EPC) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with MAPCO, Inc. (MAPCO). The DOE found that EPC demonstrated that it purchased MAPCO propane, commercial butane and normal butane during the consent order period and that EPC was injured by those purchases. Using a three-step competitive disadvantage methodology, the DOE calculated a range of EPC's competitive disadvantage. A refund of $68,743.08 was found to equitably compensate EPC for any harm experienced as a result of MAPCO's alleged overcharges. In addition, the firm received accrued interest of $53,247.90 for a total refund of $121,990.98.

Palo Pinto Oil and Gas/State of Nevada, 5/20/86; RM5–15

The DOE issued a Decision and Order granting the State of Nevada's Motion for Modification of its use of the Palo Pinto Oil and Gas second stage refund money. Nevada will now use the $162.90 remaining of its refund to print and distribute to state residents the brochure entitled "How To Keep Your Car In Tune."

Pioneer Corp./Koch Hydrocarbon Co. 5/19/86; RF52–2

The DOE issued a Decision and Order granting an Application for Refund filed by

Koch Hydrocarbon Company from the Pioneer Corporation consent order fund. The DOE found that Koch paid above market average prices for the propane, butane, isobutane, and natural gasoline it purchased from Pioneer during some of the quarters of the Pioneer consent order period. Using a three step competitive disadvantage methodology, the DOE calculated a range of Koch's competitive disadvantage. A refund of $4,372,992 (Koch's above market price volumetric share) was found to equitably compensate Koch for the harm experienced as a result of Pioneer's alleged overcharges. In addition, the firm received accrued interest of $2,433,482.

Texas Oil and Gas Corp./Commerce, Inc., 5/20/86; RF42-6

Commerce, Inc. (Commerce) filed an Application for Refund pursuant to a Decision and Order issued on August 10, 1984, in *Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 (1984). In its Application, Commerce sought a portion of a fund obtained by the DOE through a consent order entered into by the DOE and Texas Oil and Gas Corporation (TOGCO) on August 28, 1981. In considering its request, the DOE found that Commerce made only one purchase of propane from TOGCO during the entire consent order period of approximately 58 months and the firm failed to rebut the presumption that as a spot purchaser it suffered no injury. Accordingly, the Application for Refund filed by Commerce was denied.

U.S. Oil Co., Inc./Southeast Petroleum Corp., 5/21/86; RF110-3

Southeast Petroleum Corporation (Southeast) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with U.S. Oil Company, Inc. (U.S. Oil). Southeast demonstrated that it purchased 472,118 gallons of motor gasoline from U.S. Oil during the consent order period. Using a volumetric methodology, the DOE determined that Southeast's claim was below the presumption of injury threshold refund level of $5,000. The DOE therefore granted Southeast a refund of $684.57 in principal and $384.48 in accrued interest for a total refund of $1,069.05.

Union Texas Petroleum Corp./Petroleum Supply, Inc., et al., 5/20/86; RF140-5, et al.

The DOE issued a Decision and Order concerning 10 Applications for Refund filed by consumers and resellers of petroleum products purchased from Union Texas Petroleum Corporation (UTP). All of the applicants in this proceeding elected to apply under the presumption of injury for small claims set forth in *Union Texas Petroleum Corp.*, 12 DOE ¶ 85,166 (1985). The refunds granted in this proceeding, including accrued interest, total $133,123.

Dismissals

The following submissions were dismissed:

Name and Case No.

Aamco Transmissions—RF225-1758
Acme Gear Co., Inc.—RF225-1281
Aim Corp.—RF225-1645
Akron Gear & Engineering, Inc.—RF225-1123
All American Products—RF225-1450
All Brake & Drive Unit Service, Inc.—RF225-1270
Allied Corp.—RF225-1118
Anton Machine Works, Inc.—RF225-973
Arrow Gear Co.—RF225-1744
Artisan Industries, Inc.—RF225-780
Avsco, Inc.—RF225-1353
Ben Forman & Sons, Inc.—RF225-642
Bering Operating Co., Inc.—RF225-1156, RF225-1157
Blue Island Forgings, Inc.—RF225-1787
Bryco Inc.—RF225-1090, RF225-1091
Burger Iron Company—RF225-766
C-E Raymond Enterprise Manu. Facility—RF225-1445
Cable Electric Products—RF225-658
Camillus Cutlery Co.—RF225-1297
Cannon Tool Company—RF225-1444
Carlon, Electrical Sciences, Inc.—RF225-1117
Central Registor Corp.—RF225-1306
Charles E. Larson & Sons, Inc.—RF225-643
City of Beaumont—RF225-1637
City of Cotulla—RF225-1454
City of Hugoton—RF225-1139
City of Stoughton—RF225-1292, RF225-1293
City Transfer, Inc.—RF213-161
Cleveland Twist Drill—RF225-1276
Columbia Machine, Inc.—RF225-1655
Combustion Engineering, Inc.—RF225-1451
Commercial Gear & Sprocket Co.—RF225-779
Container Corp. of America—RF225-765
Container Corp. of America—RF225-1735
Corona Plastics, Inc.—RF225-1357
Cortese Motor Service—RF225-160
D & W Plastics, Inc.—RF225-982
Debourgh Mfg. Co.—RF225-639
Delmar College—RF225-629
Deluxe Check Printers, Inc.—RF225-1133
Detroit Testing Machine Co.—RF225-1215
Dixie Colvert Mfg. Co.—RF225-1421, RF225-1422
Dooling Bros., Inc.—RF225-1649
Dynamic Machinery Sales, Inc.—RF225-773
E.W. Bliss Co.—RF225-790
East Coast Finishing—RF225-977
Economy Folding Box Corp.—RF225-1449
Economy Iron Works, Inc.—RF225-1858
Ed Schmidt Pontiac-GMC Truck Inc.—RF225-981
Edwards Aviation Inc.—RF225-1037, RF225-1038
Eskimo Pie Corp.—RF225-1646
Fleetwood Homes—RF225-1913, RF225-1914, RF225-1915
Flower City Printing—RF225-1847
Fulton Mfg. Corp.—RF225-967
Gary Plastics Packaging Corp.—RF225-1149
General Tire & Rubber Co.—RF225-1663
Gessner Company—RF225-1343
Great Gas & Oil Co.—RF21-12609
Harodite Finishing Co., Inc.—RF225-1141
Harry H. Rogers Co., Inc.—RF225-1057
Henes Mfg. Co.—RF225-1643
Hermann Oak Leather Co.—RF225-1284
Hershey Chocolate Co.—RF225-1138
Hewlett Bay Fire District—RF225-724, RF225-725
Hotel Carlton—RF232-225
House Valve Co.—RF225-1126
Hy-Level Screw Products Co.—RF225-621
Independence School District No. 831—RF225-1144
Ingersoll-Rand—RF225-640
International Paper Co.—RF225-1046
J.C. Brown, Inc.—RF225-1146
Jefferson Smurfit Corp.—RF225-1280
Jericho Union Free School District—RF225-767
JSN Industries, Inc.—RF225-1656
John Gardiner's Tennis Ranch—RF225-1726
Kartidg Pak Co.—RF225-1700, RF225-1701
Keyes Fibre Co.—RF225-776
Kolk Industries, Inc.—RF225-1784
Lamar Electro-Air Corp.—RF225-1119
Lasalle Military Academy—RF225-1772
Latham Process Corp.—RF225-965
Le Beouf Bros. Towing Co.—RF225-645
Leach Company—RF225-1127
Lee Stamping Inc.—RF225-962
Letchworth Village Developmental Center—RF225-1367
Liquid Container Corp.—RF225-1857
Lodge & Shipley Co.—RF225-644
Long Island Comfort Corp.—RF225-1436
Long Beach Mfg. Co—RF225-1077
Lucking Machine—RF225-1662
Machine Tooling, Inc.—RF225-1803
Mack Trucks, Inc.—RF225-1071
Magnus Tool & Die Company—RF225-1201
Malden Catholic High School—RF225-1054
Mass Transport, Inc.—RF225-1134
Matheson Gas Products—RF225-1641
Mattapan Hospital—RF225-1191
Maynard Steel Casting Co.—RF225-1130
McCormick & Sons Oil Co., Inc.—RF225-1140
McKinley Trucking Co., Inc.—RF225-1713
Merz Machine & Tool Works—RF225-1031, RF225-1032
Metal Specialties, Inc.—RF225-1217
Metalcraft, Inc.—RF225-1228
Metalcrafts, Inc.—RF225-1354
Michigan Board of City Road Commission—RF225-1137
Mico Inc.—RF225-792
Minnkota Power Cooperative, Inc.—RF21-12608
Morse Controls—RF225-1437
Mossberg Inc., Inc.—RF225-1760
N-Ren Corp.—RF225-1861
National Compressed Steel Corp.—RF225-1653
National Utility Products Co.—RF225-769
Netam Corp.—RF225-975
Niagara Cutter, Inc.—RF225-1136
Northern Fish Products—RF225-1657
Northtown Transit Mix, Inc.—RF225-728, RF225-729
Nosko Manufacturing, Inc.—RF225-1128
Oakland Fraternal Cemetery—RF225-1688, RF225-1689, RF225-1690
Oceanic Maritime Supply, Inc.—RF225-1206
Okay Industries, Inc.—RF225-1837
Osberg Construction Co.—RF225-1498, RF225-1499
Owens-Illinois—RF225-972
Packing Materials Corp.—RF225-1805
Palisades Industries, Inc.—RF225-1079
Paramount Cards, Inc.—RF225-1443
Patterson Ginning Co., Inc.—RF225-1693, RF225-1694
Paul G. Pennoyer, Jr.—RF225-787
Payne Company—RF225-1626
Peerless Gage Inc.—RF225-679
Perlmuter Printing Co.—RF225-598
Pesson Plumbing & Heating Co., Inc.—RF225-1395, RF225-1396, RF225-1397
Plume & Atwood—RF225-1452
Portville Concrete Products—RF213-154
PPG Industries, Inc.—RF225-1644

Precision Heat Treating Associates—RF225–1283
Professional Tape Co., Inc.—RF225–778
Prospect Foundry, Inc.—RF225–1151
Putnam Valley Central School—RF225–596
Queen City Steel, Inc.—RF225–1638
Research Tool Mfg., Inc.—RF225–1651
Sarns Machine, Inc.—RF225–597
Savin Bros., Inc.—RF225–592
Schuyler Laboratories,Inc—RF225–316
Self-Serv Fixture Co.—RF225–774
Shuert/Oakland Inc.—RF225–964
Smith Precision—RF225–1791
Sonoco Products—RF225–1434
Speedway Wrecking Co.—RF225–961
SPS Technologies, Inc.—RF225–641
Stafford-Lowdon Co.—RF225–1143
Standard Pipe & Supply Co.—RF225–1929, RF225–1930
Stanton Steel Co.—RF225–518
Starkweather Freight Lines, Inc.—RF225–1642
Storck Baking Co.—RF213–94
Strawbridge & Clothier—RF225–1120
Suburban Metal Craft Inc.—RF225–772
Superior Oil & Belting Co.—RF225–636
Tampo Manufacturing Co.—RF225–1124
Taylor & Gaskin, Inc.—RF225–1733
Teledyne Howell Penncraft—RF225–979
Teledyne Mecca—RF225–1145
Teledyne Pittsburgh Tool Steel—RF225–783
Texas Steel Co.—RF225–1147
The Balf Co.—RF225–775
The Cincinnati Gear—RF225–777
The Johnstown Knitting Mill Co.—RF225–1131
The Specialty Mfg. Co.—RF225–1142
The Wakefield Corp.—RF225–683
The Wisconsin Cheeseman—RF225–1277
Thermo Dynamics Inc.—RF225–791
Timesavers, Inc.—RF225–677
Tishken Products Co.—RF225–603
Town House—RF225–1724
Troy Mills Inc.—RF225–1209
Tube Form Corp.—RF225–120
Unimet Corp.—RF225–1440
Union Center Store—RF225–660
University Lithoprinters, Inc.—RF225–671
Village of Cazenovia—RF225–1187
Village of Dannemora—RF225–1720
Village of Maple Rapids—RF225–1323
Von Hoffman Press, Inc.—RF225–1274
Votaw Precision Tool Co., Inc.—RF225–1453
W.I. Clark Company—RF225–1788
Walker Forge Inc.—RF225–1812
Warner Mfg. Corp.—RF225–1872
Waukesha Engine Division—RF225–1344
Wells Central School—RF225–770
Wicks Organ Company—RF225–1290, RF225–1291
Wiffle Ball, Inc.—RF225–599
William J. Dornan, Inc.—RF225–1448
Windsor Plastics—RF225–978
Wisconsin Automatic Door, Inc.—RF225–1352
Wollaston Alloys, Inc.—RF225–1333
Wrentham Steel Products Co.—RF225–638
Wright Tool Co.—RF225–788
Wyoming Machine & Ways, Inc.—RF225–684.

[FR Doc. 86–14659 Filed 6–27–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE–FRL–3039–7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382–2740 or FTS 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Sulfuric Acid Plants (EPA ICR #1057). (This is an extension of a currently approved ICR; no change is proposed.)

Abstract: Owners or operators of sulfric acid plants must notify EPA of construction, modifications, startups, shutdowns, malfunctions, date and results of initial performance tests. Owners and operators must install, calibrate and maintain a continuous emission monitor for SO_2, must record operating parameters, including calculation of conversion factors, and must submit semi-annual reports of excess emissions. Alternative emission monitoring requirements are available for some sources.

Respondents: Owners and operators of sulfuric acid plants.

Office of Research and Development

Title: Form for Requesting Quality Control Samples of Toxic Hazardous Materials (EPA ICR #0941). (This is a reinstatement of a previously approved ICR; no changes are proposed.)

Abstract: This form is a revision of Form 2000–0139. It will be used by federal, state, local, university, and private laboratories to assist them in conducting their quality control programs and concurrently to support the Quality Assurance Program of EPA.

Respondents: Federal, state, local, university, and private laboratories.

Title: Non-Occupational Pesticide Exposure Study (EPA ICR #1259). (This is a resubmission.)

Abstract: EPA has little information on the non-occupational exposures of the public to pesticides. The relative importance of the routes of exposures by dermal contact, inhalation, food and drinking water is unknown. These data obtained in Jacksonville, Florida, in three seasons, and in a northern city to be chosen in consultation with OMB, will elucidate components of variation of exposures.

Respondents: Households.

Office of Solid Waste and Emergency Response

Title: Operating Record for Hazardous Waste Management Facilities (EPA ICR #0808). (This is a renewal of a currently approved ICR; no changes are proposed.)

Abstract: The owner or operator of a hazardous waste management facility must keep a written operating record at his facility. It should include a description of the waste management, type of waste, emergencies, inspections, and closure/postclosure cost estimates. The operating record must be open for inspection at all reasonable times to EPA. The information is used by EPA and the facility to assure safe operation of the facility.

Respondents: Owners or operators of hazardous waste management facilities

Title: Contingency Plan for Hazardous Waste Management Facilities (EPA ICR #0809). (This is a renewal of a currently approved ICR; no changes are proposed.)

Abstract: Owners or operators of hazardous waste treatment, storage, and disposal facilities and generators who store hazardous waste are required to prepare a contingency plan. The plan must be implemented in the event of fire, explosion, or release of hazardous waste. The owner or operator must report the incident and note details in the operating record. The plan is submitted with the facility's permit application. The information is used to ensure safe operation of the facility.

Respondents: Owners and operators of hazardous waste treatment, storage, and disposal facilities and generators who store hazardous waste.

Agency PRA Clearance Request Completed by OMB

EPA ICR #1299, Farm Labor Survey, was approved 6/10/86 (OMB #2060–0137; expires 1/31/87).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460
and
Wayne Leiss (ICR #1057), Rick Otis (ICR #0941), Carlos Tellez (ICR #1259), or Nancy Baldwin (ICRs #0808 and #0809), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503

Dated: June 23, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86–14552 Filed 6–27–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59218B; FRL–3022–9]

Toxic and Hazardous Substances Controls; Approval of Test Marketing Exemption

Correction

In FR Doc. 86–11907 appearing on page 19269 in the issue of Wednesday, May 28, 1986, make the following correction:

On page 19269, in the second column, below the **T–86–38** heading, in the *Notice of Receipt* line, the year should read "1986'.

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 85–348; FCC 86–280]

GTE Sprint Communications Corp, US Telecom, Inc., Allnet Communications Services, Inc., et. al.

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: The Commission has decided to require that the Bell Operating Companies provide to requesting IXC customers certain lines and usage data for the relevant area. The BOCs will also be required to waive nonrecurring charges for trunk rearrangements associated with the deployment of access tandems that were not available upon conversion of an end office to equal access. The Commission adopted these two requirements in order to promote competition in the interstate long distance marketplace.

EFFECTIVE DATE: July 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jacqueline Spindler, Policy Division, Common Carrier Bureau, (202) 632–0745.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, CC Docket 85–348, adopted June 3, 1986 and released June 6, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Summary of Report and Order

I. Background

On June 17, 1985, GTE Sprint Communications Corporation, US Telecom, Inc., Allnet Communications Services, Inc., and United States Transmission Systems, Inc. ("Petitioners") filed a joint petition for rulemaking concerning the transition to competition in the long distance telephone market. The petitioners contended that certain aspects of the Commission's transition plan threatened the evolution to effective competition. In a Notice of Propsed Rulemaking (NPRM) released December 5, 1985, the Commission determined that its transition policy was fundamentally sound, and needed not significant modification. The Commission concluded, however, that two issues did warrant further study. Specifically, the Commission proposed to place two new requirements on the BOCs. First, the Commission proposed that the BOCs be required to waive any non-recurring charges for trunk rearrangements associated with the deployment of access tandems that were rquested, but not available, upon conversion of an end offie to equal access. Second, the Commssion proposed that the BOCs be required to provide certain information to IXCs.

The Commission's proposal concerning the BOCs' provision of certain data to their IXC customers was modeled on the Northwestern Bell program of data provision, and included the following categories of information: (1) Historical and projected numbers of business and residence telephone lines; (2) average usage per line; (3) number of firms by industry classification and the number of their employees in the area; (4) breakdowns of the population by occupation, age, and sex, as well as unemployment and labor force participation rates; and (5) number of dwelling units, breakdowns on whether the unit is owner-occupied or rented, and housing values or rents paid. The commission stated that it believed that this information would be valuable to the IXCs in their marketing and planning efforts, and that it appeared that the BOCs might be the best and most efficient providers of such information.

II. Summary of Comments

Waiver of trunk charges

In response to these two proposals the Commission received fifteen comments and twelve reply comments. The commenters stated, regarding the waiver of trunk rearrangement charges, that the BOCs for the most part were already waiving such charges. Commenters opposed, however, the formal requirement of a "request" as a prerequisite to waiver of charges, stating that OCCs may not have specifically requested tandem access, yet might, still be eligible to have the charges waived. One commenter suggested that the eligibility for waivers be limited to those OCCs already providing service in the relevant area at the time of end office conversion to direct access. In addition, it was suggested that the Commission place a six-month limit on the time for tandem access requests eligible for waiver, so that an IXC requesting tandem access more than six months after such access became available would pay any rearrangement costs itself. The BOCs that responded expressed a willingness to go along with the waiver requirement, and stated that such costs have been, and are expected to be, minimal. Some commenters also proposed that the BOCs be allowed to recover these costs by increasing slightly the switched access rates of all IXCs.

The commenters also stated that, while the information was undoubtedly useful (if properly formated), the BOCs should not be required to provide the data in categories three through five, since it is demographic in nature, is derived from census reports, and is therefore as readily available to the OCCs as to the BOCs. In addition, the comments suggest that most BOCs are already cooperating, at least to some extent, with their IXC customers in the customers' desire for information. The commenters agreed, however, that the information in categories one and two, lines and usage, is in the sole and exclusive possession of the BOCs, and that this data is essential to the IXCs in planning and marketing.

III. Discussion

Based on the record before it, the Commission decided to impose on the BOCs a requirement that they waive nonrecurring charges for trunk rearrangements associated with the deployment of access tandems after the conversion to direct access. The Commission determined that this requirement will help promote competition in the interstate long distance marketplace. As proposed in the comments, the Commission will make this waiver requirement subject to a six-month limit, and will allow the BOCs to recover these costs by including them in their revenue requirements for access charges assessed all IXCs. The Commission further decided to require the BOCs to provide to their IXC customers the information in Categories one and two (historic and projected residential and business lines, and average usage per line). The Commission also recommended, but did not require, that the BOCs provide such other information, from categories three, four and five, as is in their possession and can easily be made available.[1] The required information is to be provided upon the request of the IXC,[2] and the BOC may recover from the requesting IXC the incremental costs of such provision.

1. Accordingly, It Is Ordered pursuant to sections 1, 4, 201 and 403 of the Communications Act of 1934 as amended, 47 U.S.C. 1, 4, 201, and 403, that the BOCs will be required to make available to their IXC customers customer line and usage information under the conditions set forth herein.

2. It Is Further ordered that the BOCs shall waive nonrecurring charges for trunk rearrangements associated with the deployment of access tandems that are requested within six months of their first availability under the conditions set forth herein.

3. Finally, It is ordered that Common Carrier Docket 85–348 is terminated.

[1] The Commission recognized that some of this information has been provided to the BOCs by consultants or others under contract, and stated that its recommendation did not encourage violation of the terms of such contracts.

[2] The information is to be provided in machine—readable format unless otherwise requested by the IXC, and is to be made available within 90 days of the release of the order or within 30 days of the request, whichever is later. In addition, the information should be updated at least semi-annually.

Federal Communications commisson.

William J. Tricarico,

Secretary.

[FR Doc. 86–14567 Filed 6–27–86; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreements pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC. 20573, within 10 days after the the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–010807–001
Title: Long Beach Terminal Agreement
Parties: The City of Long Beach (City)
Moller Steamship Company, Inc. (Moller)
Synopsis: The proposed amendment would redefine the area assigned to Moller by the City to include a substantial part of the first expansion area into the original area assigned to include the remaining portion into a single expansion area. The amendment also modifies the percentage of wharfage revenue to be paid to the City to reflect these adjustments. The parties have requested a shortened review period.

Agreement No.: 217–010966
Title: Bank Line/W.E.C. Lines Space Charter Agreement
Parties: The Bank Line Limited (Bank Line) W.E.C. Lines
Synopsis: The proposed agreement would permit Bank Line to Charter space on W.E.C. Lines vessels for cargo moving between ports in East Africa from the Southern border of Mozambique to and including Cape Guardafui, Somalia, including the islands in the Indian Ocean (Reunion, Mauritius, the Comores and Seychelles and Madagascar) and the islands of Ascension and St. Helena, by direct call or transshipment, and inland and coastal points served via those ports, to and from U.S. ports on the Gulf of Mexico, the U.S. Atlantic and Pacific Coasts, the Great Lakes, and U.S. inland and coastal points.

Agreement: No.: 224–010967
Title: Container Corporation of America/Ocean Highway and Port Authority Ground Lease Terminal Agreement
Parties: Container Corporation of America (CCA) Ocean Highway and Port Authority (OHPA)
Synopsis: The proposed agreement would permit CCA to lease to OHPA land in Fernandina Beach, Florida for the creation of a new commerical seaport. The leasing agreement would remain in effect for a period of 45 years.

By Order of the Federal Maritime Commission.

Dated: June 24, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86–14660 Filed 6–27–86; 8:45 am]

BILLING CODE 6730–01–M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in §§ 522.7 and/or 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 003–010965
Title: Island Ocean Terminal Agreement
Parties: Puerto Rico Maritime Shipping Authority, Trailer Marine Transport Corporation, Sea-Land Service, Inc.
Synopsis: The proposed agreement would permit the parties to agree upon and establish a common tariff setting forth the terminal and

accessorial charges and the rules, regulations and provisions governing the receipt and delivery of cargo within the Commonwealth of Puerto Rico. It would permit the parties to cooperate in the collection and administration of such terminal and accessorial charges, rules, regulations and provisions and to establish neutral body policing governing the enforcement thereof. It would not permit or authorize the parties to discuss or establish linehaul ocean freight rates or intermodal through rates. The parties have requested a shortened review period.

Filing Party: Mario F. Escudero, Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036.

Dated: June 25, 1986.

By Order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-14689 Filed 6-27-86; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Being Reviewed by the Office of Management and Budget: Application for Presenting New Articles.

AGENCY: Item Management Division, Federal Supply Service, GSA.

SUMMARY: Under the Paperwork Reduction Act of 1980 (44 U.S.C., ch. 35), the General Services Administration (GSA) has requested the Office of Management and Budget to approve an information collection.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Rodney P. Lantier, GSA Clearance Officer, General Services Administration (CAID), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Barbara Ellison (GSA), Item Management Division (703) 557-7510.

SUPPLEMENTARY INFORMATION:

a. *Purpose.* Information collected will help GSA decide the merits of products for the Federal Supply System.

b. *Annual reporting burden.* Respondents, 1,500; responses 1; hours, 750.

c. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (CAID), Room 3009, GS Bldg., Washington, DC 20405 (202) 566-0668.

Dated: June 23, 1986.

Michael G. Barbour,

Director, Information Management Division (CAI).

[FR Doc. 86-14626 Filed 6-27-86; 8:45 am]

BILLING CODE 6820-24-M

FAPRS—The Federal Assistance Programs Retrieval System

AGENCY: General Services Administration.

ACTION: Notice of the availability of the Federal Assistance Programs Retrieval System (FAPRS), an online information system.

SUMMARY: The General Services Administration (GSA) announces the availability of direct access to the Federal Assistance Programs Retrieval System (FAPRS) by public and private organizations and individuals. FAPRS contains information on over 1,000 Federal programs to assist Federal, State, and local governments, public and private institutions, and individuals. It makes the program information printed in the *Catalog of Federal Domestic Assistance* available online for computerized access. FAPRS, updated semiannually, is designed to assist potential applicants in identifying Federal Programs suitable to their needs. Access to FAPRS is provided on a cost reimbursable basis. Charge per single search should be less than $10 depending on the length.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Varner, General Services administration, Federal Domestic Assistance Catalog Staff, Reporter's Building, 300 7th Street, SW., Washington, DC 20405, (202) 453-4135.

Dated: June 17, 1986.

Robert Brown,

Director, Federal Domestic Assistance Catalog Staff.

[FR Doc. 86-14285 Filed 6-27-86; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers of Disease Control

Cooperative Agreement to Assist the Mexican Ministry of Health in Developing and Conducting a Human-Diploid Cell Measles Vaccine Trial

The Centers for Disease Control announces the availability of funds in Fiscal Year 1986 for a Cooperative Agreement with the Mexican Ministry of Health for assistance in developing and conducting a study of the Edmonston-Zagreb human-diploid cell (HDC) measles vaccine in infants under nine months of age. This program is authorized under section 307 of the Public Health Service Act (42 U.S.C. 2411), as amended. The catalog of Federal Domestic Assistance Number is 13.283.

The Cooperative Agreement requires close collaboration with a health agency which has experience in the production and the clinical evaluation of Edmonston-Zagreb HDC vaccine, and has the ability to further evaluate this vaccine in a target developing country population. The Mexican Ministry of Health represents the only such agency to meet these requirements.

This is not a formal request for applications, and other applications will not be accepted. It is expected that approximately $230,000 will be available in Fiscal Year 1986 to support this project for a 12-month period.

FOR FURTHER INFORMATION CONTACT: Betty Feeley, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, Telephone: (404) 262-6575 or FTS 236-6575.

Dated: June 23, 1986.

Robert L. Foster,

Acting Director, Office of Program Support Centers for Disease Control.

[FR Doc. 86-14627 Filed 6-27-86; 8:45 am]

BILLING CODE 4160-18-M

National Institutes of Health

Nation Center for Nursing Research Advisory Council et al.;

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), and the Health Research Extension Act of 1985 (Pub. L. 99-158), the National Institutes of Health announces the establishment by the Secretary of Health and Human Services of the following committees:

National Center for Nursing Research Advisory Council. The Council shall advise the Secretary; the Assistant Secretary for Health; the Director, National Institutes of Health; and the Director, National Center for Nursing Research, on matters relating to the conduct and support of, and dissemination of information respecting, basic and clinical nursing research, training, and other programs in health care.

National Kidney and Urologic Diseases Advisory Board. The Board shall develop and periodically update a

long-range plan to combat kidney and urologic diseases, with specific recommendations for the utilization and organization of national resources for that purpose. This plan shall be based on a comprehensive study of the magnitude of kidney and urologic diseases, their causes and consequences, the economic and social impact, and the national resources capable of dealing with the problems.

Dated: June 20, 1986.

Thomas E. Malone,

Acting Director, National Institutes of Health.

[FR Doc. 86-14616 Filed 6-27-86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, September 11-12, 1986, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Manpower Subcommittee of the above Council will meet on September 10, 1986, at 1:00 p.m. and 8:00 p.m. respectively, in Building 31, Conference Rooms 9 and 10.

The Council meeting will be open to the public on September 11 from 9:00 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the Council meeting will be closed to the public from approximately 3:30 p.m. on September 11 to adjournment on September 12 for the review, discussion and evaluation of individual grant applications. The meetings of the Research Subcommittee and the Manpower Subcommittee of the above Council on September 10, will be closed from 1:00 p.m. and 8:00 p.m., respectively, to adjournment for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiries Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Council members.

Dr. Samuel H. Joseloff, Executive Secretary of the Council, Westwood Building, Room 7A-15, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-7548, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: June 19, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-14615 Filed 6-27-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on July 30-31, 1986, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina. This meeting will be open to the public from 9:00 a.m. to approximately 10:30 on July 30 for general discussion. Attendance by the public is limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10:30 a.m. on July 30 to adjournment on July 31, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun or Carol Shreffler, Executive Secretaries, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919-541-7826), will provide summaries of meeting and rosters of committee members.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: June 19, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-14614 Filed 6-27-86; 8:45 am]

BILLING CODE 4101-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-86-1584; FR 2209]

Section 202 Loans for Housing for the Elderly or Handicapped; Announcement of Fund Availability; Fiscal Year 1986

Correction

In FR Doc. 86-13945 beginning on page 22568 in the issue of Friday, June 20, 1986, make the following corrections on page 22569 in the table in the first column:

1. Under Metropolitan Loan authority, the fourth entry, "1,617,000", should read "1,671,000".

2. Under Metropolitan units, the eighth entry, "3000", should read "300".

3. Also under Metropolitan Units, the seventeenth entry, "675", should read "657".

4. Under Nonmetropolitan units, the third entry from the bottom, "74", should read "75".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Organization, Functions, and Authority Delegations; Hearings and Appeals Office; Relocation Assistance

AGENCY: Department of the Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of the Interior bureaus and offices will continue to have the Office of Hearings and Appeals as the designee of the Secretary of the Interior for the purpose of considering and deciding relocation assistance appeals.

EFFECTIVE DATE: May 28, 1986.

FOR FURTHER INFORMATION CONTACT: Billy Lee Hart, Chief, Division of Real

Property Management, Office of Acquisition and Property Management, Room 5517, Department of the Interior, Washington, DC 20240, (FTS or 202) 343–3336.

SUPPLEMENTARY INFORMATION: In the new Uniform Relocation Act rules which appeared in the **Federal Register** of Thursday, February 27, 1986 (51 FR 7000), 41 CFR 114–50.310 (—.10), paragraph (h) states, "The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed." This notice is to advise appellants to file appeals with the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203, (FTS or 703) 235–3810.

Gerald R. Riso,

Assistant Secretary.

[FR Doc. 86–14657 Filed 6–27–86; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Wampanoag Tribal Council of Gay Head, Inc.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(f) (formerly 25 CFR 54.9(f)), notice is hereby given that the Assistant Secretary proposes to decline to acknowledge that the Wampanoag Tribal Council of Gay Head, Inc., c/o Mrs. Gladys Widdiss, State Road, RFD Box 137, Gay Head, Massachusetts 02535, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not meet two of the mandatory criteria set forth in 25 CFR 83.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States.

The Wampanoag Tribal Council of Gay Head is based on land which was traditionally and aboriginally Wampanoag. This organization represents a group of lineal descendants of the Gay Head Wampanoag Indians whose ancestors have inhabited this area since first sustained contact with European settlers in 1642. The Gay Head Wampanoags have been identified as being American Indians from historical times until the present, and Gay Head has been identified continuously throughout history as an Indian community. Since at least 1807, however, a substantial portion of the Gay Head Indian descendants have not resided in this or any other American Indian community, and at present only about 15 percent of the group's 521 members reside at Gay Head. For most of this century, the Gay Head Indians have not maintained group interaction or tribal social relations, either within the historically Indian settlement or between those resident at Gay Head and the ever-growing number of non-resident Gay Head Indian descendants.

Aboriginal Wampanoag leadership was provided by a hereditary chief or sachem, and Gay Head was one of four major sachemships on the island of Martha's Vineyard. No reference to the sachemship could be found after 1687, and there is only one firsthand description of the political system or processes at work at Gay Head prior to 1827. However, there is evidence that the Gay Head Indians continued to maintain some tribal authority through the consensus of a general council between 1727 and 1870. These people continuously petitioned the colonial and state authorities of Massachusetts during this period. State records acknowledge that between 1814 and 1862 these Indians were essentially autonomous and self-governing. In 1862 the State imposed greater jurisdictional control over Gay Head by establishing it as an Indian district. Full state citizenship was extended to the Gay Head Indians in 1869, and in 1870 the State incorporated Gay Head as a township. After that date, the State did not officially recognize the existence of a tribal entity at Gay Head until 1976.

Following incorporation as a town, the Indians at Gay Head lost their political authority and influence as a tribal group. The group's acknowledgment petition maintains that the "imposed" town government structure was adopted by the Indians as their tribal governing body until 1972, the year in which the Wampanoag Tribal Council of Gay Head was formed. However, the existing sources indicate that although the town government was dominated by Indian descendants, in substance and form it was indistinguishable from any other small New England town. It took no actions which might be interpreted as primarily benefitting the Gay Head Indians as a tribal group, and a number of its officers were not of Gay Head Indian descent. There is some evidence, in fact, that it actually spurned Indian activities and identification and rejected formal alliances with other Indians groups and communities.

Unlike any other tribal government, the town government was mandated by State law to accept legal responsibility for an increasing number of non-Indian residents, while it had no legal authority over the significant number of Gay Head Indian descendants who left the town. No evidence was found to indicate that town officials exerted any informal political influence or control over the non-resident Gay Head Indian descendants or that the non-residents participated in the political process within the town. Nor could it be established that sustained political influence or authority was maintained within the Gay Head community outside the town government through any formal or informal group structure or process. Neither has it been demonstrated that the Wampanoag Tribal Council of Gay Head, Inc., formed in 1972, has exercised significant political influence or authority over the Gay Head Indian descendants. This organization does not have a substantial base of political support in its claimed membership, either in Gay Head or elsewhere. The Tribal Council has not succeeded either in creating interest in the issues defined by its leadership as important or in promoting attendance and participation in group activities.

The group's governing document describes how membership is determined and how the group governs its affairs and its members. Approximately 98 percent of the 521 members can demonstrate that they meet the group's membership requirement. Documentary evidence exists establishing their ancestry back to the historical tribe as it existed in 1792.

No evidence was found that the members of the Wampanoag Tribe Council of Gay Head, Inc., are members of any other Indian tribe or that the group or its members have been the subject of Federal legislation which has expressly terminated or forbidden a relationship with the United States Government.

Based on this preliminary factual determination, we conclude that the Gay Head Wampanoags meet criteria a, d, e, f, and g, but do not meet criteria b and c of § 83.7 of the Acknowledgment regulations (25 CFR Part 83).

Section 83.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 120-days from the date of publication of this notice.

Under § 83.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision will be available to the petitioners and

interested parties upon written request. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, 1951 Constitution Avenue, NW., South Interior Building, Room 32, Washington, DC 20245, Attention: Branch of Acknowledgment and Research.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the 120-day response period, the Assistant Secretary will publish the final determination regarding the petitioner's status in the Federal Register as provided in § 83.9(h).

If at the expiration of the 120-day response period this proposed finding is confirmed, the Assistant Secretary, in accordance with § 83.9(j), will analyze and forward to the petitioner other options, if any, under which the petitioner might make application for services or other benefits.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 86-14684 Filed 6-27-86; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Action To Prepare for Timber for Sale Under the Provisions of House Joint Resolution 465; Medford District, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Final notice of action to prepare timber for sale under the provisions of House Joint Resolution 465.

SUMMARY: House Joint Resolution 465 (Pub. L. 99-190) directs the Secretary of the Interior to sell timber returned to the United States under the Federal Timber Contract Payment Modification Act (Pub. L. 98-478) to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Years 1985 and 1986 in the Medford District of the Bureau of Land Management.

To implement the requirements of House Joint Resolution 465, the Medford District will offer for sale in this Fiscal Year 213 million board feet of new timber and all timber not sold in Fiscal Year 1985. Pursuant to the congressional mandate to achieve the full allowable cut for Fiscal Years 1985/1986 as directed by House Joint Resolution 465, if any of these sales are enjoined, stayed or otherwise delayed by reason of judicial review or administrative appeal, the Secretary of the Interior will offer as a substitute sale a nearly equal volume of timber in the Medford District from that returned to the United States under the Federal Timber Contract Payment Modification Act. House Joint Resolution 465 provides that any decision by the Secretary to sell the returned timber shall not be subject to judicial review.

EFFECTIVE DATE: April 14, 1986.

ADDRESS: Any suggestions or inquiries should be sent to: Director (230), Bureau of Land Management, Room 5626, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Chuck Frost (202) 653-8864 or Dave Estola (503) 231-6837.

SUPPLEMENTARY INFORMATION: A notice of action to prepare for sale timber under the provisions of House Joint Resolution 465 was published in the **Federal Register** on April 14, 1986 (51 FR 12657), and the public was invited to review the proposed substitute sales, ratings and environmental studies and make comments for 30 days. No public comments were received during the comment period.

The Bureau of Land Management recommended that the Secretary of the Interior permit the modification of sales 1 through 22, 25 through 27, 31, 33, 35 and 36, 39 and 44. Those sales were listed in the notice of April 14, 1986. Modifications include changing silvicultural prescriptions from shelterwood to clearcut; removal of cutting units located on trial harvest lands which are not currently needed for studies under the Forestry Intensified Research program; and modifications of units to provide increased protection for other resources such as riparian areas and wildlife habitat. The modifications are in conformance with the environmental impact statements for the Josephine and Jackson/Klamath master units and with the supplemental environmental impact statement for the Medford District timber management program. The Bureau also recommends combining Little Lo Cal (Sale No. 17) and Logan Cut (Sale No. 19) into one sale, combining Toad Ditch (Sale No. 22) and Lucky Seven (Sale No. 44) into one sale and combining Long Gulch (Sale No. 35) and Missouri Mason (Sale No. 39) into one sale because of common access, of common rock resource for surfacing roads and of the relatively close vicinity of the sales to one another. The recommended modifications do not alter the original environmental rating of any sale. The Bureau of Land Management also recommends rearrangement of sale priority to facilitate modification of sales.

The Secretary of the Interior concurs with the recommendations of the Bureau of Land Management.

The Secretary of the Interior, therefore, directs the Bureau of Land Management to offer sales of timber from the following list of sales, in the order designated, as other planned sales are enjoined, stayed or otherwise delayed by judicial review or administrative appeal:

1. Logan Lo Cal (Combined Little Lo Cal and Logan Cut).
2. Deer Dear.
3. J-Root.
4. Stratton Ridge.
5. Susan Creek.
6. Windy Dutchman.
7. North Fork Butte Creek.
8. Jackass Thinning.
9. Cow Overlook.
10. Rattlesnake.
11. Cleveland Combo.
12. Anaktuvak.
13. Archer McNabb.
14. Hot Loft.
15. Snow Rerun.
16. 14 Stings.
17. Hewitt Creek.
18. Rum Creek.
19. Slippery Chicken.
20. 19 Reasons.
21. Southside II.
22. Lucky Toad (Combination of Toad Ditch and Lucky Seven).
23. Esmond Mountain.
24. Wilcox Peak.
25. Willow Creek.
26. Salt Lick.
27. Headwaters.
28. Long Missouri (Combined Long Gulch and Missouri Mason).
29. Spike II.
30. Murphy Gulch.
31. Pop Rock.
32. Dead Indian Creek.
33. Woodford Creek.
34. Eastman Gulch.
35. Peters Pride.
36. Bull Run.
37. Wildcat.
38. Malone Creek.
39. Cold Springs.
40. West McGinnis.
41. West Panther Salv.
42. Mules Noses.
43. Mules End.
44. Starveout.
45. Flying W.
46. Rockhead II.
47. Pennington Water.
48. Skull Creek.

In offering these sales in the order designated, the total volume must approximate the total volume of any delayed sales.

Any sale substitued by the Bureau of Land Management pursuant to this notice is a final action under House Joint Resolution 465.

J. Steven Griles,

Assistant Secretary of the Interior.

June 24, 1986.

[FR Doc. 86-14674 Filed 6-27-86; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas Operations on the Outer Continental Shelf (OCS); Availability of Revised Lease Form

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of availability of revised lease form.

SUMMARY: This Notice informs the public of the availability of information copies of Lease Form MMS-2005 (March 1986). This form supersedes Form MMS-2005 (August 1982).

EFFECTIVE DATE: The effective date of the revised form will be immediate upon publication of this Notice, and the revised form will be referenced in future Notices of OCS oil and gas lease sales.

SUPPLEMENTARY INFORMATION: Details of the revisions were published November 22, 1983, in the **Federal Register** (48 FR 52777). The changes were made to clarify and otherwise improve the form.

Potential bidders and others may obtain copies of the revised form from any of the following MMS offices:

Regional Supervisor, Leasing and Environment, Alaska OCS Region, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska 99510, Telephone: (907) 261-4045

Regional Supervisor, Leasing and Environment, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, Telephone: (703) 285-2165

Public Information Unit, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Parkway, New Orleans, Louisiana 70123-2394, Telephone: (504) 736-2519

Regional Supervisor, Leasing and Environment, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Room 244, Los Angeles, California 90017, Telephone: (213) 894-6775

Dated: June 23, 1986.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 86-14651 Filed 6-27-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the seventy-seventh meeting of the Board for International Food and Agricultural Development (BIFAD) on July 24, 1986.

The purposes of the meeting are to consider matters such as the following: to hear a presentation given by the Deputy Assistant Administrator of the Latin American Bureau of A.I.D. on AID's programs and plans in the Caribbean Basin; to review a report by the JCARD Panel on current and proposed budget allocations; to review a proposal on BIFAD subcommittee structure and to receive a status report on the AID Matching Support Grant Program.

The meeting will be held at 9:00 a.m. and adjourn at 12:30 p.m. on July 24th. The meeting willl be held in the Pan American Health Organization Building, 525 23rd Street, NW., Washington, DC 20037. Any interested person may attend, may present oral statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Erven J. Long, Director, Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as AID Advisory Committee Representative at ths meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, DC 20523, or telephone him at (703) 235-8929.

Dated: June 25, 1986.

Eren J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 86-14682 Filed 6-27-86; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30849]

Atlanta and West Point Rail Road Co.; Merger; Seaboard System Rail Road, Inc.; Exemption

Atlanta and West Point Rail Road Company (AWP) and Seaboard System Railroad, Inc. (SBD), have entered into an agreement providing for the merger of AWP into SBD. SBD owns all the outstanding stock of AWP, which operates a short line of railroad between Atlanta and West Point, AL. No significant changes in operations or services are contemplated. The merger is intended merely to simplify SBD's corporate structure and to eliminate a corporate entity that no longer serves any practical purpose. The merger will be consummated on June 30, 1986.

This is a transaction within a corporate family of the type specifically exempted under 49 CFR 1180.2(d)(3) from prior approval. The transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees affected by the transaction will be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Dated: June 17, 1986.

By the Commission, Louis E. Gitomer, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-14652 Filed 6-27-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Pacific Telesis Group, and Communications Industries, Inc.; Comment and Response on Proposed Consent Decree Judgement

Pursuant to the Antitrust Porcedures and Penalties Act, 15 U.S.C. 16(a) and (b), the United States publishes below the comment it received on a proposed consent decree judgment in *United States v. Pacific Telesis Group, and Communications Industries, Inc.*, Civil Action No. CV-86-1298-RMT, United States District Court for the Central District of California, together with the response of the United States to this comment.

Copies of the response and the public comment are available on request for inspection and copying in Room 7233, Legal Procedure Unit, Department of Justice, Washington, DC, and for inspection at the Offices of the Clerk of the United States District Court for the Central District of California, in Los Angeles.

Note.—The exhibits referenced are not included in this **Federal Register** document.

Joseph H. Widmar,

Director of Operations Antitrust Division.

United States District Court for the Central District of California

[No. CV–86 1298]

United States of America, Plaintiff, v. *Pacific Telesis Group and Communications Industries, Inc.*, Defendants.

Comments of McCaw Cellular Communications, Inc. in Opposition to Entry of the Porposed Final Judgment

McCaw Cellular Communications, Inc. ("McCaw") submits these written comments to the United States Department of Justice pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)) and in response to the Notice published in the **Federal Register** on March 18, 1986. 51 FR 9283 (March 18, 1986).

A. Interest of McCaw

McCaw is a diversified communications company with interests in a number of Calfornia non-wireline cellular telephone systems, including the cellular systems that serve or will serve San Francisco, San Jose, Sacramento, Stockton, Napa-Vallejo-Fairfield and Fresno in Northern California.

As the result of the acquisition of Communications Industries, Inc. ("CI") by defendant Pacific Telesis ("Telesis"), the competitor overlap between wireline and non-wireline cellular telephone carriers in Northern California alluded to in Footnote 6 of the Competitive Impact Statement ("CIS") will be exacerbated because Telesis will obtain CI's partnership interest in the Bay Area Cellular Telephone Company ("BACTC"). Moreover, Footnote 6 is incorrect and misleading with respect to the competitive situation in the San Francisco-Sacramento area. Contrary to the implication of Footnote 6, competition may be substantially lessened in San Francisco, Sacramento and other adjacent areas in Northern California because Telesis, as a wireline cellular carrier with partnership interests in most of the wireline cellular carriers in the region, is obtaining interests in BACTC, a non-wireline cellular carrier in the region.

B. Acquisition of a Non-Wireline Cellular Carrier by a Wireline Cellular Carrier With Interests in the Same Region Will Lessen Competition

Telesis is a "wireline cellular carrier" throughout California. It holds controlling interests in the Los Angeles, San Diego, Sacramento, and Oxnard-Simi-Ventura, California wireline cellular systems. Complaint ¶5. Moreover, Telesis also controls, or will control, wireline cellular systems in Stockton, Modesto and Merced, California. And it owns or will own partnership interests in almost every other Northern California wireline cellular system. In conjunction with GTE Mobilnet, Contel Mobilcom and other wireline telephone companies, Telesis' Northern California wireline partnership interests include or will include Santa Rosa, Santa Cruz and Salinas-Seaside-Monterey. Moreover, according to a 1984 agreement, these Telesis-owned Northern California wireline cellular systems will be operated out of San Francisco-San Jose by Mobilnet, the wireline cellular competitor to BACTC.[1]

Adjacent cellular carriers have interests in cooperating with each other to realize economies of scale and integration, as well as enhanced business opportunities in a natural geographic extension of their operations. Wireline systems, such as those owned by Telesis, cooperate with wireline systems; and non-wirelines cooperate with non-wirelines. There are technical and other practical reasons for doing so. For example, wireline cellular companies owned by conventional telephone companies like Telesis are uniformly allocated a discrete block of 333 radio channels which are referred to as Block B channels. Non-wirelines are allocated 333 Block A channels. Only two cellular companies are licensed in each geographic area. One is the "Block B" cellular company that is owned by the local conventional wireline telephone companies. The other is the "Block A" cellular company that is owned by companies not engaged in conventional wireline telephone service, or "non-wireline" companies like McCaw. As the result of the Block A and Block B channel assignments, adjacent systems assigned to the same block of channels must coordinate with each other.

The benefits of region-wide coordination were recognized in 1982 and confirmed in 1984 when the California wireline cellular companies carved up the wireline cellular areas in the state so that each one would control a number of adjacent wireline cellular licensees. In so doing, Telesis and the other cellular wireline carriers gave recognition to the regional nature of the cellular telephone business. Telesis coordinates its Los Angeles wireline cellular system with the adjacent Oxnard-Simi-Ventura wireline cellular system. Indeed, the two were joined together under common ownership to create a single wide-area wireline cellular system. Telesis' Los Angeles wireline partnership agreement with GTE Mobilnet, Contel Mobilcom and United States Cellular Company required annexation of adjacent cellular systems. "Applications of the [Telesis] . . . to provide Cellular Service in areas adjoining the [Los Angeles] SMSA shall be deemed to be made on behalf of the Partnership. . . ."[2] The Los Angeles wireline partnership agreement also provides that Telesis has power to apply on behalf of the partnership to the FCC for permits and licenses to provide cellular service in areas adjoining Los Angeles where such adjoining areas have "a community of interest and where such expansion appears to be economically justifiable and would result in cellular service being provided . . . in a unified area . . ."[3] Similarly, the Los Angeles wireline partnership agreement anticipates negotiation of "mutually acceptable arrangements with other *wireline* carriers" to provide unified service in adjacent areas.[4]

The wireline and non-wireline cellular systems in San Francisco and San Jose have each been joined together into their respective unified systems. And, as the agreement in Exhibit A indicates, Mobilnet's wireline system in San Francisco will expand further in conjunction with adjacent wireline systems in Northern California.

Telesis' acquisition of CI's partnership interest in the Bay Area Cellular Telephone Company ("BACTC"), the nonwireline cellular carrier in San Francisco-San Jose, makes impossible the type of cooperation and expansion that wireline carriers such as Telesis have enjoyed in Los Angeles, San Francisco and elsewhere, because Telesis owns and controls most of the wireline cellular systems adjacent to the San Francisco-San Jose area.

For example, BACTC can neither merge with nor cooperate with the adjacent non-wireline systems in Sacramento or Stockton when Telesis controls the competing wireline systems in the two areas. In fact, Telesis has an overwhelming incentive to decide against such expansion.[5]

Indeed, there is evidence that Telesis acted to prevent coordination between BACTC in the non-wireline cellular carrier in Sacramento. For example, Telesis uses American Telephone & Telegraph Company ("AT&T") cellular equipment in Los Angeles and Oxnard-Simi-Ventura. AT&T's disbtributed switching is ideal for linking adjacent cellular systems. It is believed that AT&T equipment is also used in Telesis' adjacent San Diego cellular system. Yet, Telesis voted against AT&T equipment in the BACTC partnership and in favor of another manufacturer's equipment that does not offer this advantage. It did so after being informed that the Sacramento non-wireline system desired to coordinate with BACTC.

The conclusion follows that competition to provide coordinated, unified cellular service in Northern California will be eliminated unless Telesis is enjoined. Moreover, wireline companies like Telesis will be encouraged to purchase interests in adjacent non-wirelines to prevent regional competition from taking place. Economies in switching, marketing,

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[1] Exhibit A, February 3, 1984 Agreement between GTE Mobilnet Incorporated, Contel Mobilcom, Inc. and PacTel Mobile Access. Appendix at p. 7–8.

[2] Exhibit B, Article VIII, ¶ 8.8, p. 22. The Mobilnet San Jose wireline partnership agreement contains a similar provision. Exhibit C, Article VIII, ¶ 8.8, p. 22.

[3] Exhibit B, Article VII, § 7.2(f), p. 18–19. Exhibit C, the San Jose Agreement, is similar: Article VII, ¶ 7.2(f), p. 18.

[4] Exhibits B and C, Article V, ¶ 5.4, p. 14.

[5] Due to its partnership interest in BACTC, which gives it rights to BACTC's competitive information, Telesis will also have advance knowledge of BACTC's strategy with regard to coordination with adjacent non-wireline cellular systems.

advertising, system design and management of adjacent non-wirelines will be precluded. Consumers will suffer because competition to provide better, cheaper, more efficient cellular service to the public will be sacrificed.

C. The Competitive Impact Statement is Flawed

For the foregoing reasons, the CIS is flawed to the extent that the Department's suit and its revocable agreement to entry of the proposed final judgment relies on the incorrect premise articulated in Footnote 6 of the CIS that Telesis' acquisition of CI appears less likely to reduce competition in Northern California than the partner overlap alleged in the Complaint. As we have shown, the competitor overlap in San Francisco, and the adjacent Northern California area, where Telesis will be both a wireline and non-wireline carrier will injure competition and must be enjoined. This problem, of course, can best be cured by removing Telesis from BACTC.[6]

D. The Decree is Not in the Public Interest

Because the relief contained in the proposed decree is not broad enough to solve the Northern California competitive problems created by Telesis' acquisition of CI's interest in BACTC, the Department of Justice should withdraw its consent to the decree. Moreover, Footnote 6 to the CIS should be corrected.

Conclusion

For the foregoing reasons, the Department should withdraw its consent and seek broader relief against Telesis to remove it from the BACTC non-wireline partnership.

May 19, 1986.

Respectively submitted,

John H., Shenefield,

Peter E. Halle,

Patricia W. Workman,

Morgan, Lewis & Bockius

1800 "M" Street, NW., Washington, DC 20036, (202) 872-5000.

United States District Court for the Central District of California

[No. CV-86-1298-RMT]

United States of America Plaintiff, v. *Pacific Telesis Group, and Communications Industries, Inc.*, Defendants.

Response of the United States to Public Comments and Motion of the United States for Entry of Final Judgment

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)-16(g)) (the "APPA"), the United States of America hereby files its Response to Public Comments and moves for entry of the proposed Final Judgment against Pacific Telesis Group ("Telesis") and Communications Industries, Inc. ("CI") in this civil antitrust proceeding.

[6] Unlike the allegations in the Complaint, this problem has nothing to do with McCaw's being a partner in both BACTC and the adjacent Sacramento non-wireline system.

I. Introduction

This action began on February 28, 1986, when the United States filed a complaint alleging that one aspect of the proposed acquisition of CI by Telesis would violate section 7 of the Clayton Act (15 U.S.C. 18) and section 1 of the Sherman Act (15 U.S.C. 1). The complaint alleged that, as a result of the acquisition, Telesis would become a partner with LIN Cellular Communications Corporation (LIN) in one of the two cellular systems in Dallas-Fort Worth, Texas, thereby increasing the potential for collusion between Telesis and LIN, the only two firms in the Los Angles cellular market. Thus, the effect of the acquisition might be substantially to lessen competition in the provision of cellular telephone service in Los Angles, California. The complaint requested that Telesis be required to divest its interest in the Dallas-Forth Worth cellular system or that other appropriate relief be granted to prevent Telesis from participating in or gaining access to confidential information about the Dallas-Fort Worth cellular system.

Also on February 28, 1986, the United States filed a stipulation among the United States, Telesis and CI for entry of the proposed Final Judgment, and a Competitive Impact Statement explaining the basis for the complaint and for the United States' conclusion that entry of the proposed Final Judgment would be in the public interest. The proposed Final Judgment largely eliminated the anticompetitve effects alleged in the complaint by restricting Telesis to an essentially passive role in the Dallas-Fort Worth cellular system.

The stipulation provides that the Final Judgment may be entered by the Court after completion of the procedures required by the APPA. In order to afford the public the benefits of the safeguards contained in the proposed Final Judgment, Telesis and CI further stipulated to comply with the terms of the Final Judgment pending its entry by the Court. Entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify or enforce the Final Judgment.

II. Compliance With the APPA

Upon publication of this Response in the **Federal Register**, the procedures required by the APPA will have been completed, and the Court may enter the proposed Final Judgment.

A. Stipulation, Proposed Final Judgment and Competitive Impact Statement

The United States has caused the stipulation among the parties for entry of the proposed Final Judgment, the proposed Final Judgment and the Competitive Impact Statement, in the form prescribed by 15 U.S.C. 16(b), to be filed with the Court and to be published in the **Federal Register** (51 Fed. Reg. 9277, Mar. 18, 1986). [1] It also has furnished copies of these documents to all persons who have requested them.

[1] A copy of the **Federal Register** Notice is attached to this Response as Exhibit A.

B. Newspaper Notices

The United States has caused newspaper notices of the proposed Final Judgement and its Competitive Impact Statement to be published in the Washington Times and the Los Angeles Herald Examiner in accordance with the procedures set forth in 15 U.S.C. 16 (c).[2]

C. Statements Regarding Communications

As required by 15 U.S.C. 16(g), on March 10, 1986, Telesis and CI each filed with the Court a description of communications, by or on behalf of the defendants, with officers and employees of the United States concerning the proposed Final Judgment.

D. Waiting Period, Comments and Publication of Comments and Response

The 60-day period provided by the 15 U.S.C. 16(d) for submission of public comments expired on May 19, 1986. The United States received only one set of comments; those were submitted to the Department of Justice by McCaw Cellular Communications, Inc. ("McCaw") on May 19, 1986. In accordance with the APPA, the United States has evaluated McCaw's comments, and responds to them below. As required by 15 U.S.C. 16(b), McCaw's comments are being filed with this response, and the Comments and this response also will be published in the **Federal Register**. Counsel for the United States will inform the Court when publication has occurred.

E. Response to Comments

No person other than McCaw questioned the United States' conclusion, explained in the Competitive Impact Statement, that entry of the proposed Final Judgment is in the public interest. Moreover, McCaw's comments contain neither factual nor policy arguments that would justify a judicial refusal to enter the judgment.

The issue in a Tunney Act proceeding is "[w]hether the relief provided . . . was adequate to remedy the antitrust violations alleged in the complaint."[3] McCaw does not dispute the United States' conclusion that the relief provided by the proposed Final Judgment effectively will remedy the antitrust violations alleged in the complaint, *i.e.*, the potential anticompetitive effects in the Los Angeles cellular market of Telesis' acquisition of an interest in the Dallas-Fort Worth cellular system. Rather, McCaw

[2] Copies of the affidavits of publication are attached to this Response as Exhibit B.

[3] *United States* v. *Bechtel Corp.*, 1979-1 Trade Cas. (CCH) ¶ 62. 429 (N.D. Cal. 1979), *aff'd* 648 F. 2d 660, 665 (9th Cir. 1981), *cert. denied*, 454 U.S. 1083 (1982). *See also, United States* v. *National Broadcasting Companies*, 449 F. Supp. 1127, 1144 (C.D. Cal. 1978) citing *United States* v. *Automobile Manufacturers Ass'n*, 307 F. Supp. 617, 621 (C.D. Cal 1969), *aff'd per curiam sub nom. City of New York* v. *United States*, *397 U.S. 248 (1970)*:

"[I]n evaluating a proposed consent decree, one highly significant factor is the degree to which the proposed decree advances and is consistent with the government's original prayer for relief. [citations omitted]."

contends that the United States should have challenged another aspect of the acquisition—Telesis' acquisition of an interest in the Bay Area Cellular Telephone Company, the non-wireline cellular carrier in San Francisco—which currently is the subject of private litigation between McCaw and Telesis.[4]

The APPA, however, does not give a court the authority to order the United States to file a broader complaint than the Department of Justice, in the exercise of its prosecutorial discretion, has determined is appropriate. Rather, the court is to enter a proposed judgment, if it finds that the judgment is in the public interest; if the court finds that the proposed judgment is not in the public interest, the court may condition its approval on modifications of the judgment,[5] or require the United States to proceed to trial. Moreover, the United States explained in the Competitive Impact Statement its reasons for not challenging the aspects of the acquisition to which McCaw objects,[6] and McCaw's comments raise no issue that has not already been considered by the United States.[7]

F. Public Interest Determination

Before entering the proposed Final Judgment, the Court is to determine that the Judgment is in the public interest. 15 U.S.C. 16(e). This determination can properly be made on the basis of the Competitive Impact Statement and this Response.[8] Judicial precedent clearly establishes that the Department of Justice has broad discretion in controlling government antitrust litigation, including negotiating consent decrees and determining whether such settlements are in the public interest.[9] Thus, as this Court has explained:

It is not the court's duty to determine whether this is the best possible settlement that could be obtained if, say, the government had bargained a little harder. The court is not settling the case. It is determining whether the settlement achieved is within the reaches of the public interest.[10]

Accordingly, since the basis for the United States' conclusion that the proposed Final Judgment is in the public interest was fully explained in the Competitive Impact Statement, and the single set of comments filed does not raise any serious question concerning the adequacy of the relief obtained by the United States, the Court may enter the proposed Final Judgment as soon as compliance with the APPA is completed by publication of the comments and Response in the **Federal Register.**

III. Conclusion

For the reasons set forth in the Competitive Impact Statement and this Response, the Court should find that the proposed Final Judgment is in the public interest and should enter that judgment after publication of this Response in the **Federal Register.**

Dated: June 9, 1986.

Respectfully submitted,

Barry Grossman,

Chief, Communications and Finance Section, Antitrust Division.

Nancy C. Garrison,

Michael L. Volkov,

Attorneys, United States Department of Justice, Antitrust Division, Washington, DC 20530, (202) 724–6736.

[FR Doc. 86–14347 Filed 6–27–86; 8:45 am]

BILLING CODE 4410–01–M

Notifications, National Cooperative Research International Magesium Development Corporation

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98–462 ("the Act"), International Magnesium Development Corporation ("IMDC") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identity of the parties to a joint venture agreement and (2) the nature and objectives of that agreement. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specific circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the agreement and its general areas of planned activities are given below.

The parties to the joint venture are:

A/S Kongsberg Vapenfabrikk
Amax Magnesium
Billiton International Metals R.V.
Chromasco, Division of Timminco Limited
Dow Chemical U.S.A.
Hitchcock Industries, Inc.
International Magnesium Development Corporation
Magnesium Elektron Limited
Montangessellschaft mbh
Norsk Hydro A S
Northwest Alloys, Inc.
Pechiney Electrometallurgie

The activities to be engaged in are the assessment of magnesium technology and development versus competing materials for structural applications and identification of potential opportunities for further joint research.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86–14709 Filed 6–27–86; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL SCIENCE FOUNDATION

Meeting of the Arctic Five-Year Research Plan Consultative Workshop

Notice of Meeting

In accordance with the Arctic Research and Policy Act of 1984, Pub. L. 98–373, the National Science Foundation announces the following meeting:

Name of Meeting: Arctic Five-Year Research Plan Consultative Workshop.

Dates of Meeting: November 17–19, 1986.

Place: Anchorage, Alaska (Sheraton Anchorage Hotel).

Purpose of Meeting: Section 109 of the Arctic Research and Policy Act requires the Interagency Arctic Research Policy Committee to consult with a number of groups during development of the Five Year Plan for Arctic research. That responsibility will be fulfilled in part at a Consultative Workshop to be held in Anchorage, November 17–19, 1986. Representatives of the groups named in section 109(a) of the Act (Arctic Research Commission, Governor of Alaska, residents of the Arctic, the private sector and public interest groups) are invited to review, discuss and comment on the Committee's recommendations and suggested research plans. The meeting will also provide an opportunity for members of the general public to review and comment on the Federal Five Year Plan for Arctic Research.

The Five-Year Plan for Arctic Research is organized to address research needs in the following areas:

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[4] McCaw Comments at 2–7. McCaw alleges that Telesis' acquisition of CI's San Francisco interest will substantially lessen competition in the San Francisco, Sacramento and other Northern California cellular markets.

[5] *See United States* v. *American Telephone and Telegraph Co.*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983).

[6] Competitive Impact Statement at 7 n.6.

[7] As noted in the Competitive Impact Statement (at 14, section IV), entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage actions under section 4 of the Clayton Act (15 U.S.C. 15). Thus it will have no effect as a matter of law on McCaw's pending litigation against Telesis (N.D. Cal. No. C 85–4004 SW).

[8] The procedures of 15 U.S.C. 16(f) are discretionary, and a court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* S. Rep. 93–298, 93d Cong. 1st Sess. 6–7 (1973); H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8–9 (1974).

[9] *See Sam Fox Publishing Co.* v. *United States*, 366 U.S. 683, 689 (1961); *Swift & Co.* v. *United States*, 276 U.S. 311, 331–332 (1928); *United States* v. *Gillette*, 406 F. Supp. 713, 716 (D. Mass. 1975). As the House Report states, the APPA adopts prior law as the standard for review of consent decrees. H.R. Rep. 93–1463, 93d Cong., 2d Sess. 11–12 (1974).

[10] *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978), quoting *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass 1975). *See also, e.g., United States* v. *Bechtel, supra*, 648 F.2d at 666; *United States* v. *G. Heileman Brewing Co.*, 563 F. Supp. 642, 647 (D. Del. 1983).

1. Arctic Weather and Ice Dynamics Research
2. Arctic Marine Ecosystems Research
3. Arctic Land Based Environmental Research
4. Arctic Energy and Mineral Resources Research
5. Arctic Health Research
6. Arctic Coastal Engineering Research
7. Arctic Cultural Research

Public Participation: This meeting is open to the public. Attendance by representatives of groups named in the Arctic Research and Policy Act is strongly encouraged.

For Further Information: If you are interested in attending the workshop and obtaining pre-registration materials, or are unable to attend the workshop but would like further information, please write to the following address: Arctic Five-Year Research Plan Workshop, c/o Toborg Associates, Inc., Suite 803, 1725 K Street, NW., Washington, DC 20006.

Information will be mailed in late August, 1986.

Costs: A fee of $25.00 per person will be charged to defray the costs of luncheons and coffee.

John B. Talmadge,

Executive Associate for Arctic Science Policy and Research, and Chairman, Interagency Arctic Research Policy Committee Staff Representatives, Division of Polar Programs, National Science Foundation.

[FR Doc. 86-14624 Filed 6-27-86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-321 and 50-366]

Georgia Power Co. et al.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-57 and NPF-5 issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia (the licensees), for operation of the Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, respectively, located in Appling County, Georgia.

In accordance with the licensees' application for amendment dated March 27, 1986, the amendments would modify the Technical Specifications for Hatch Units 1 and 2 to:

(1) Change the Hatch Unit 1 Reactor Protection System (RPS) and Control Rod Block Calibration frequencies to provide for consistency with the Hatch Unit 2 Technical Specifications. This change decreases the calibration frequency for some items, increases it for others and removes the calibration frequency requirement from still others.

(2) Change the RPS instrument functional test frequencies and equipment outage times from both units based on General Electric Company Topical Report NEDC-30851P which provides a probabilistic basis for RPS instrument functional test frequencies and equipment outage times. The change decreases the instrument functional test frequencies for some items and increases it for others. For Hatch Unit 2 only, it also increases the time allowed to place an inoperable channel in the tripped condition.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and Commission's regulations.

By July 30, 1986, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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 an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-600 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Mr. Daniel R. Muller: 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, DC, 20555 and to Bruce W. Churchill, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC attorney for the licensees.

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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of 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 amendments dated March 27, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland, this 20th day of June, 1986.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, BWR Project Directorate #2, Division of BWR Licensing.

[FR Doc. 86–14703 Filed 6–27–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–321 and 50–366]

Georgia Power Co. et al; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–57 and NPF–5 issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia (the licensees), for operation of the Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, respectively, located in Appling County, Georgia.

In accordance with the licensees' application for amendments dated April 15, 1986, the amendments would modify the Technical Specifications for Hatch Units 1 and 2 to: (1) Revise the operating requirements for the rod worth minimizer and the rod sequence control systems to include the use of the banked position withdrawal sequence control rod withdrawal procedure during the first 50 percent of withdrawal; (2) remove the spent fuel storage linear mass restriction of 15.2 grams of uranium-235 per axial centimeter of fuel bundle; (3) add maximum average planar linear heat generation rate (MAPLHGR) limits for a new fuel type and for an old fuel type with a different channel thickness; and (4) correct several editorial errors and clarify the applicability of thermal limits.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and Commission regulations.

By July 30, 1986, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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 an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Docket Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for 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 Mr. Daniel R. Muller: 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, DC 20555 and to Bruce W. Churchill, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC, attorney for the licensees.

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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of 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 dated April 15, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Appling County Public

Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland, this 20th day of June, 1986.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, BWR Project Directorate No. 2, Division of BWR Licensing.

[FR Doc. 86-14704 Filed 6-27-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 30-07022, 30-19146; License Nos. 29-13613-02, 29-13613-03; EA 86-17]

Radiation Technology, Inc.; Order Suspending Licenses (Effective Immediately)

I

Radiation Technology, Inc. Lake Denmark Road, Rockaway, New Jersey 07866 (the Licensee) is the holder of two byproduct materials licenses issued by the Nuclear Regulatory Commission (the Commission or NRC) pursuant to 10 CFR Part 30. License No. 29-13613-02 was issued on November 18, 1970, was most recently renewed on August 17, 1981, and is due to expire on August 31, 1986. On June 6, 1986, the Licensee submitted an application for renewal of this license. License No. 29-13613-03 was issued on April 22, 1981, was due to expire on April 30, 1986, and is currently in effect pursuant to a timely application for renewal in accordance with 10 CFR 2.109. These licenses authorize the Licensee to perform certain activities using byproduct material in acordance with criteria specified therein.

II

On March 3, 1986, the Director, Office of Inspection and Enforcement (IE) issued an Order Suspending the License (Effective Immediately). The Order was made immediately effective pending the completion of an ongoing NRC investigation. The Order suspended all operations authorized by License No. 29-13613-02 and required that the licensee place and maintain all sources in their fully shielded position at the bottom of the irradiator pools, and conduct only those licensed activities required to maintain the facility in a safe condition. The Order was based on the findings, as a result of several NRC inspections and investigations, that licensee personnel had defeated required safety interlocks associated with the RT-2102 service irradiator at the Rockaway facility in violation of Commission requirements, including 10 CFR 20.203 and Conditions 17 and 18 of its license. Consequently, the NRC lacked reasonable assurance that the facility would be operated in a manner that assured that the health and safety of the public, including licensee employees, would be protected.

Operation of the RT-2102 service irradiator with any safety interlock bypassed has potentially serious adverse effects on individuals at the facility. For example, in an earlier incident in 1977 at this same facility, when the personnel access door interlock system was rendered inoperable, a licensee employee entered the irradiator cell while the radioactive sources were exposed and received a radiation dose to the whole body in the range of 150-300 rem, an amount well in excess of the regulatory limit.

Subsequent to the issuance of the March 3, 1986 suspension order, the Licensee requested that the staff lift the suspension while the ongoing investigations were continuing, based on various conditions proposed by the Licensee including supervision by an independent third party with overview by an independent fourth party. The Licensee's commitments to these proposals were described in a letter to the NRC dated March 10, 1986. Based on these commitments, as well as additional conditions imposed by the staff and agreed to by the Licensee on March 13, 1986, the Director, IE issued a Conditional Rescission of the Order Suspending License. The March 13, 1986. Order established conditions under which the Licensee could resume operations pending completion of the NRC investigations. The Licensee consented to the Rescission Order on March 13, 1986. However, on March 16, 1986 the Licensee requested a hearing on the original suspension order. On April 11, 1986, the Licensee withdrew its request for hearing on the suspension order.

III

The third and fourth party consultants have provided adequate coverage of operations in the short term since the license suspension was lifted on March 13, 1986, and improvements have been made in the management, maintenance, training, and operations at the facility since the hiring of a new Vice President of Engineering and Operations on or about March 24, 1986. However, the investigation has now been essentially completed and in conjunction with related inspections established that: (1) Numerous licensee personnel willfully violated Commission requirements by defeating interlock systems on numerous occasions between April 1984 and November 1985 for the conveyor system, between February 20 and 26, 1986 for the personnel access system, and by replacing the conveyor interlock system in 1985 without obtaining prior NRC approval, (2) senior licensee management, including the Chief Executive Officer (CEO) who was Radiation Safety Officer and who is Chairman of the Board of Directors and apparently a controlling stockholder of the Licensee, knew or should have known that on these occasions licensee personnel violated license requirements, and (3) in response to NRC's attempt to inspect and investigate these suspected violations, senior licensee management, including the CEO, several managers, and numerous irradiator operators, willfully provided false information to the NRC regarding the circumstances surrounding the changes to the conveyor interlock system and the circumstances surrounding the operation of both the conveyor and personnel access interlock system. This false information misled both inspectors and investigators and interfered with NRC inspections in February 1986 and investigations between January and June 1986. This pattern of licensee conduct is established by, but not limited to, the following examples:

A. In April, 1984, the CEO authorized, and another manager directed, that the interlock system for the irradiator conveyor doors be bypassed in violation of License Conditions 17 and 18 and 10 CFR 20.203.

B. Between April and September, 1984, operators periodically bypassed conveyor door interlocks and the CEO, who was also the RSO, as well as other management personnel, knew or should have known that such bypassing was occurring and was a violation of License Conditions 17 and 18 and 10 CFR 20.203.

C. In September, 1984, the Licensee agreed to abide by a Confirmatory Action Letter (CAL) which confirmed the Licensee's agreement to stop the practice of bypassing the conveyor door interlocks; however, contrary to the CAL, between September 1984 and November 1985; irradiator operators continued to bypass these interlocks and the CEO and other managers knew or should have known that this practice was continuing.

D. On or about November 1985, the CEO and other licensee managers directed: (1) The dismantling of the conveyer door interlock system required by license, and (2) the substitution and use of a new interlock system, without the required prior approval of the NRC in violation of License Conditions 17 and 18.

E. In February 1986, a licensee manager directed the continuation of irradiator operations, following the malfunction of the personnel access

door interlock system, a system required by the NRC license to be operable by License Conditions 17 and 18. Operation of the irradiator with the interlock inoperable continued for approximately one week until identified by the NRC.

F. The CEO or other senior managers, and in some cases both, either directed, persuaded, or otherwise influenced managers, irradiator operators, and a licensee contractor to provide false information to inspectors and investigators. This false information provided to the NRC constituted material false statements made in willful violation of Section 186 of the Atomic Energy Act and impeded inspections and investigations in violation of 10 CFR 30.52. The statements were made by numerous individuals concerning the circumstances surrounding: the operations of the conveyor access interlock system after September 1984; the replacement of the conveyor interlock system in 1985; the operations of the personnel access interlock system between February 20 and February 26, 1986; the position of the Licensee's Radiation Safety Officer; and the Licensee's preparations in anticipation of NRC investigations and inspections.

The recent investigation findings indicating that the violations originally described in the March 3, 1986 suspension order were willful and that numerous management and operations personnel willfully provided false information to the NRC demonstrate a pattern of wrongdoing so pervasive that the NRC no longer has reasonable assurance even with the third and fourth party auditors in place that the Licensee will comply with NRC requirements and that the public health and safety, including the safety of the licensee's employees, will be protected if this licensee is permitted to continue the conduct of licensed activities. If at the time the license was issued the NRC had known that such a pattern would develop, the license would not have been issued.

Accordingly, I have determined that these licenses must be suspended pending review of the Licensee's renewal applications and further order of the NRC. I have further determined that the willful nature of the violations as well as the public health and safety requires that this Order be effective immediately and that prior notice is not required pursuant to 10 CFR 2.202(f).

IV

In view of the foregoing, and pursuant to sections 81, 161b, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, it is hereby ordered, effective immediately, that:

A. All operations authorized by License Nos. 29–13613–02 and 29–13613–03 (Licenses) are suspended, except as hereinafter stated, pending review of the Licensee's renewal applications and further order of the NRC.

B. The Licensee shall place and maintain all licensed material in secure storage and ensure that the sources located in the service and R&D irradiators remain in their fully shielded position at the bottom of the irradiator pools. Upon the written request of the Licensee and with the prior approval of the Regional Administrator, Region I, the Licensee may transfer the sources to a person licensed to receive the material.

C. Following written confirmation to the Regional Administrator, Region I, that the Licensee has complied with conditions A and B above, the March 13, 1986 "Conditional Rescission of Order Suspending License" is rescinded and the requirements for the third and fourth party auditors are no longer applicable.

D. The Licensee shall comply with all other conditions of its Licenses and applicable Commission regulations and maintain the facility in a safe condition.

E. No employee or officer of the Licensee's corporation involved with licensed activities at the Rockaway facility between April 3, 1984 and February 26, 1986, may be transferred by the Licensee to the South Jersey Process Technology, Inc. facility (licensed by the NRC) in Salem, New Jersey or to the Process Technology, Inc. facility in West Memphis, Arkansas, or the Process Technology (NC) Inc. facility in Haw River, North Carolina (licensed by an Agreement State under section 274 of the Atomic Energy Act of 1954, as amended) without prior approval by the NRC Regional Administrator, Region I.

V

The Director, Office of Inspection and Enforcement may relax or rescind any of the provisions in Section IV of this Order for good cause demonstrated by the Licensee.

VI

The Licensee may show cause why this Order should not have been issued and should be vacated by filing a written answer under oath or affirmation within 30 days after issuance of this Order, setting forth the matters of fact and law on which the Licensee relies. The Licensee may answer this Order, as provided in 10 CFR 2.202(d), by consenting to the provisions specified in section IV above. Upon the Licensee's consent to the provisions set forth in section IV of this Order or upon failure of the Licensee to file an answer within the specified time, the provisions specified in section IV above shall be final without further order.

VII

The Licensee, or any other person whose interest is adversely affected by this Order, may request a hearing within 30 days of the date of this Order. Any answer to this Order or any request for a hearing shall be submitted to the Director, Officer of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 with a copy to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19456. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). If a hearing is requested by the Licensee or any person who has an interest adversely affected by this Order, the Commission will issue an order designating the time and place of any such hearing. Any answer or request for a hearing shall not stay the immediate effectiveness of section IV of this order.

In the event a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 23rd day of June, 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86–14706 Filed 6–27–86; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated regulatory analysis. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the

staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, MS 501-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Fracture Toughness Criteria for Ferritic Steel Shipping Containers with a Wall Thickness Greater than Four Inches (0.1 m)" and is intended for Division 7, "Transportation." It is being developed to describe fracture toughness criteria acceptable to the NRC staff for use in evaluating ferritic steel shipping cask containment vessels with a wall thickness greater than four inches.

This draft guide and the associated regulatory analysis are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the regulatory analysis. Comments on the draft regulatory analysis should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Comments will be most helpful if received by August 29, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C 552(a))

Dated at Rockville, Maryland, this 23rd day of June 1986.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 86-14705 Filed 6-27-86; 8:45 am]

BILLING CODE 7590-01-M

Governors' Designees Receiving Advance Notification of Transportation of Nuclear Waste

[**Editorial Note:** The following document was originally published at page 23015 in the issue of Tuesday, June 24, 1986. It is being republished at the request of the agency.]

On January 6, 1982, the Nuclear Regulatory Commission (NRC) published in the **Federal Register,** as final, certain amendments to 10 CFR Parts 71 and 73 (effective July 6, 1982), which require advance notification to Governors or their designees concerning transportation of certain shipments of nuclear waste and spent fuel. The advance notification covered in Part 73 is for spent nuclear reactor fuel shipments and the notification for Part 71 is for large quantity shipments of radioactive waste (and of spent nuclear reactor fuel not covered under the final amendment to 10 CFR Part 73).

The following list updates the names, addresses and telephone numbers of those individuals in each State who are responsible for receiving information on nuclear waste shipments. The list will be published annually in the Federal Register on or about June 30, to reflect any changes in information.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS

States	Part 71	Part 73
Alabama	Col. Byron Prescott, Director, Alabama Department of Public Safety, P.O. Box 1511, Montgomery, AL 36192-0501, (205) 261-4378.	Same.
Alaska	Mr. Bill Ross, Commissioner, Alaska Department of Environmental Conservation, Pouch 0, Juneau, AK 99811, (907) 465-2600.	Do.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Arizona	Charles F. Tedford, Director, Arizona Radiation Regulatory Agency, 4814 South 40 Street, Phoenix, AZ 85040, (602) 255-4845, After hours: (602) 998-4662.	Do.
Arkansas	E.F. Wilson, Director, Radiation Control and Emergency Management Programs, Arkansas Department of Health, 4815 West Markham Street, Little Rock, AR 72201, (501) 661-2301, After hours: (501) 661-2136 or 661-2000.	Do.
California	L.M. Short, Chief, California Highway Patrol, P.O. Box 942898, Sacramento, CA 94298-0001, (916) 445-3253.	Do.
Colorado	Captain Lonnie J. Westphal, Officer in Charge, Staff Services Branch, Colorado State Patrol, 1325 S. Colorado Blvd., Bldg. 700B, Denver, CO 80222, (303) 691-8107, After hours: (303) 757-9422.	Do.
Connecticut	The Honorable Stanley J. Pac, Commissioner, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106, (203) 566-2110.	Do.
Delaware	Edward J. Steiner, Secretary, Department of Public Safety Highway Administration Building, P.O. Box 818, Dover, DE 19903, (302) 736-4321.	Do.
Florida	Harlan Keaton, Public Health Physicist Manager, Office of Radiation Control, Department of Health & Rehabilitative Services, P.O. Box 15490, Orlando, FL 32858, (305) 299-0580.	Do.
Georgia	Ken M. Copeland, Director of the Office of Permits and Enforcement, Georgia Department of Transportation, 940 Virginia Avenue, Hapeville, GA 30354, (404) 656-5435.	Do.
Hawaii	James K. Ikeda, Deputy Director for Environmental Health, Department of Health, P.O. Box 3378, Honolulu, HI 96813, (808) 548-4139.	Do.
Idaho	Robert D. Funderburg, Manager, Radiation Control Section, Department of Health & Welfare Division of Environment, 450 W. State, 5th Floor, Statehouse, Boise, ID 83720, (208) 334-4107, After hours: (208) 362-5260.	Do.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Illinois	Dr. Terry Lash, Director, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, 5th Floor, Springfield, IL 62704, (217) 546-8100.	Do.
Indiana	John T. Shettle, Superintendent, Indiana State Police, 301 State Office Building, 100 North Senate Avenue, Indianapolis, IN 46204, (317) 232-8248 (24 hours).	Do.
Iowa	John D. Crandall, Director, Office of Disaster Services, Hoover State Office Building, Des Moines, IA 50319, (515) 281-3231.	Do.
Kansas	Leon H. Mannell, P.E. Administrator, Radiological Systems, The Adjutant General's Department, Division of Emergency Preparedness, P.O.Box C-300, Topeka, KS 66601, (913) 233-9253, Ext. 321.	Do.
Kentucky	Donald R. Hughes, Sr., Manager, Radiation Control, Department for Health Services, 275 East Main Street, Frankfort, KY 40621, (502) 564-3700.	Do.
Louisiana	Col. Wiley D. McCormick, Head, Louisiana State Police, 265 South Foster Drive, P.O. Box 66614, Baton Rouge, LA 70896, (504) 925-6117.	Do.
Maine	Chief of the State Police, Maine Dept. of Public Safety, Statehouse—Station #42, Augusta, ME 04333, (207) 289-2155.	Do.
Maryland	Major James A. Jones, Chief, Services Bureau, Maryland State Police, 1201 Reisterstown Road, Pikesville, MD 21208, (301) 486-3101.	Do.
Massachusetts	Robert M. Hallisey, Director, Radiation Control Program, Massachusetts Department of Public Health, 150 Tremont Street, 7th Floor, Boston, MA 02111, (617) 727-6214.	Do.
Michigan	James E. Cox, Captain, Commanding Officer, Operations Division, Michigan Department of State Police, 714 S. Harrison Road, East Lansing, MI 48823, (517) 337-6100.	Do.
Minnesota	John R. Kerr, Natural Disaster Planner, Minnesota Division of Emergency Services, B5 State Capitol, St. Paul, MN 55155, (612) 296-2233, After hours: (612) 778-0800.	Do.
Mississippi	James E. Maher, Director, Mississippi Emergency Management Agency, P.O. Box 4501, Fondren Station, Jackson, MS 39216, (601) 352-9100.	Do.
Missouri	Richard D. Ross, Director, State Emergency Management Agency, 1717 Industrial Drive, P.O. Box 116, Jefferson City, MO 65102, (314) 751-2321, After hours: (314) 751-2748.	Do.
Montana	Mr. Larry Lloyd, Chief, Occupational Health Bureau, Department of Health & Environmental Sciences, Room A113, Cogswell Bldg., Helena, MT 59620, (406) 444-3671.	Mr. George DeWolf, Administrator, Disaster & Emergency Services Division, 1100 North Last Chance Gulch, Helena, MT 59601 (406) 444-6111.
Nebraska	Col. Robert L. Tagg, Superintendent, Nebraska State Patrol, P.O. Box 94907, State House, Lincoln, NE 68509, (402) 471-2406 or (402) 471-4545.	Do.
Nevada	Stanley R. Marshall, Supervisor, Radiological Health Section, Bureau of Regulatory Health Services, Nevada Division of Health, 505 East King Street, Room 202, Carson City, NV 89710, (702) 885-5394.	Do.
New Hampshire	Richard M. Flynn, Commissioner, New Hampshire Dept. of Safety, James H. Hayes Building, Hazen Drive, Concord, NH 03305, (603) 271-3636 (24 hours).	Do.
New Jersey	Frank Cosolito, Assistant to the Director, Division of Environmental Quality, Department of Environmental Protection, Room 1109, CN-027, Trenton, NJ 08625, (609) 292-5383.	Do.
New Mexico	Michael F. Brown, Acting Chief, Radiation Protection Bureau, Environmental Improvement Division, P.O. Box 968, 1190 St. Francis Drive, Santa Fe, NM 87504-0968, (505) 827-2959, After hours (505) 982-4969.	Do.
New York	Donald A. DeVito, Director, State Emergency Mgmt. Office, Division of Military and Naval Affairs, Public Security Building, State Campus, Albany, NY 12226, (518) 457-2222.	Do.
North Carolina	Captain Walter K. Chapman, Director, Administrative Services, North Carolina Highway Patrol Headquarters, P.O. Box 27687, Raleigh, NC 27611, (919) 733-7952, After hours: (919) 733-3861.	Do.
North Dakota	Dana K. Mount, Director, Division of Environmental Engineering, North Dakota State Department of Health, 1200 Missouri Avenue, Rm 304, Box 5520, Bismarck, ND 58502-5520, (701) 224-2348, After hours: 1-800-472-2121.	Do.
Ohio	James R. Williams, Chief of Staff, Disaster Services Agency, 2825 Granville Road, Worthington, OH 43085, (614) 889-7157.	Do.
Oklahoma	The Honorable Paul W. Reed, Jr., Commissioner of Public Safety, Oklahoma Department of Public Safety, 3600 N. Eastern Avenue, Oklahoma City, OK 73111, (405) 424-4011.	DO
Oregon	William T. Dixon, Administrator, Siting and Regulation, Oregon Department of Energy, 625 Marion Street N.E., Salem, OR 97310, (503) 378-6469.	DO.
Pennsylvania	George M. Johnson, Director, Response and Recovery, Pennsylvania Emergency Management Agency, P.O. Box 3321, Harrisburg, PA 17105, (171) 783-8150, After hours: (717) 783-8150.	DO.
Rhode Island	William A. Maloney, Associate Administrator, MotorCarriers, Division of Public Utilities and Carriers, 100 Orange Street, Providence, RI 02903 (401) 277-3500.	DO.
South Carolina	Heyward G. Shealy, Chief, Bureau of Radiological Health, South Carolina Department of Health & Environmental Control, 2600 Bull Street, Columbia, SC 29201, (803) 758-7806, After hours: (803) 758-5531.	DO.
South Dakota	Robert D. Gunderson, Division Director, Emergency and Disaster Services, Capitol Building, Basement, Pierre, SD 57501, (605) 773-3231.	DO
Tennessee	John White, Assistant Deputy Director, Tennessee Emergency Management Agency, State Emergency Operations Center, 3041 Sidco Drive, Nashville, TN 37204, (615) 252-3300, After hours: 1-800-258-3300.	DO.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Texas	Dr. Robert Bernstein, Commissioner, Texas Department of Health, Bureau of Radiological Health, 1100 West 49th Street, Austin, TX 78756, (512) 458-7375.	Col. James B. Adams, Director, Texas Department of Public Safety, 5805 N. Lamar Blvd., Austin, TX 78752 (512) 465-2000.
Utah	Larry F. Anderson, Director, Bureau of Radiation Control, State Office Bldg., Rm 3253, P.O. Box 45500, Salt Lake City, UT 84145-0500, (801) 533-6734.	Do.
Vermont	Susan C. Crampton, Secretary, Vermont Agency of Transportation, 133 State Street, Montpelier, VT 05602, (802) 828-2657.	DO.
Virginia	Michael M. Cline, Deputy Director, Operations Division, Department of Emergency Services, Commonwealth of Virginia, 310 Turner Road, Richmond, VA 23225, (804) 323-2300.	DO.
Washington	Curtis P. Eschels, Chairman, Energy Facility Site Evaluation Council, Mail Stop PY-11, Olympia, WA 98504, (206) 459-6490.	DO.
West Virginia	Colonel W. F. Donohoe, Superintendent, Department of Public Safety, 725 Jefferson Road, South Charleston, WV 25309, (304) 746-2111.	Do.
Wisconsin	Colette Blum Meister, Administrator, State of Wisconsin/Division of Emergency Government, 4802 Sheboygan Ave., Room 99A, P.O. Box 7865, Madison, WI 53707, (608) 266-3232.	Do.
Wyoming	Julius E. Haes, Jr., Chief, Radiological Health Services, Department of Health & Social Services, Hathaway Building, Cheyenne, WY 82002, (307) 777-7956.	Do.
District of Columbia	Herbert T. Wood, Ph.D., Senior Public Health Advisor, Department of Consumer and Regulatory Affairs, Room 1014, 614 H Street, NW., Washington, DC 20001, (202) 727-7190, After hours: (202) 529-3349	Do.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Puerto Rico	Santos Rohena, Jr., Chairman, Environmental Quality Board, P.O. Box 11488, Santurce, PR 00910, (809) 722-1175 or (809) 725-5140.	Do.
Guam	James B. Branch, Administrator, Guam Environmental Protection Agency, P.O. Box 2999, Agana, Guam 96910, (671) 646-7579.	Do.
Trust Territory of the Pacific Islands.	R. Kent Harvey, Attorney General, Trust Territory of the Pacific Islands, Saipan, CM 96950, Saipan 9325 or 9364.	Do.
Virgin Islands	Honorable Juan Luis, Governor, Government House, Charlotte Amalie, St. Thomas, Virgin Islands 00801, (809) 774-0001.	Do.
American Samoa.	Mr. Pati Faiai, Government Ecologist, Environmental Protection Agency, Office of the Governor, Pago Pago, American Samoa 96799, (684) 633-2304.	Do.
Commonwealth of the Northern Mariana Islands.	Nicolas M. Leon Guerrero, Director, Department of Natural Resources, Commonwealth of Northern Mariana Islands Government, Saipan, CM 96950, # 9830 or # 9834.	Do.

Questions regarding this matter should be directed to Mindy Landau at (301) 492-9880.

Dated at Bethesda, MD this 18th day of June, 1986.

For the Nuclear Regulatory Commission.

Donald Nussbaumer,

Acting Director, Office of State Programs.

[FR Doc. 86-14223 Filed 6-23-86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending June 20, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44096 R-1—R-5

Parties: Members of International Air Transport Association
Date Filed: June 16, 1986
Subject: U.S.-Luxembourg Fares
Proposed Effective Date: July 1, 1986

Docket No. 44097 R-1—R-3

Parties: Members of International Air Transport Association
Date Filed: June 16, 1986
Subject: Passenger Agency Conference
Proposed Effective Date: August 1, 1986

Docket No. 44098

Parties: Members of International Air Transport Association
Date Filed: June 16, 1986
Subject: African Currency
Proposed Effective Date: July 1, 1986

Docket No. 44099

Parties: Members of International Air Transport Association
Date Filed: June 16, 1986
Subject: Zambia Adjustment Factors
Proposed Effective Date: June 15, 1986

Docket No. 44109

Parties: Members of International Air Transport Association
Date Filed: June 20, 1986
Subject: Lebanon Adjustment Factors
Proposed Effective Date: June 28, 1986

Docket No. 44110

Parties: Members of International Air Transport Association
Date Filed: June 20, 1986
Subject: Europe-Southwest Pacific Reso 002
Proposed Effective Date: July 1, 1986

Docket No. 44111 R-1—R-10

Parties: Members of International Air Transport Association
Date Filed: June 20, 1986
Subject: Mail Vote 047—Limited Agreements With Europe
Proposed Effective Date: July 1, 1986

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-14691 Filed 6-27-86; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended June 20, 1986

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
June 19, 1986	44107	Rosenbalm Aviation, Inc., R. Bruce Keiner, Jr., Crowell & Moring, 1100 Connecticut Avenue, NW., Washington, DC 20036. Application of Rosenbalm Aviation, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of property and mail on a permissive basis between the following points: Between any point or points in any State of the United States (including all points in United States commonwealths, territories and possessions), and the District of Columbia, on the one hand, and a point or points in the following countries, on the other hand: Algeria; Austria; Bahrain; Belgium; Canada; Denmark; Egypt; Federal Rep. of Germany; France; Hong Kong; India; Indonesia; Shannon, Ireland; Israel; Kenya; South Korea; Kuwait; Liberia; Netherlands; Nigeria; Oman; Pakistan; Portugal; Romania; Senegal; Singapore; South Africa; Spain; Sri Lanka; Sweden; Switzerland; Taiwan; Thailand; Tunisia; Turkey; United Arab Emirates; United Kingdom; Yugoslavia; Zimbabwe. Conforming Applications, Motions to Modify Scope and Answers may be filed by July 17, 1986.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-14692 Filed 6-27-86; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

June 23, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, N.W., Washington, DC 20220.

U.S. Customs Service

OMB No.: 1515-0076
Form Number: CF 3124
Type of Review: Extension
Title: Application for Customshouse Broker's License
Clearance Officer: Vince Olive (202) 566-9181, U.S. Custom Service, Room 6321, 1301 Constitution Avenue, NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC. 20503

Internal Revenue Service

OMB Number: 1545-0185
Form Number: IRS Form 4798
Type of Review: Revision
Title: Carryover of Pre-1970 Capital Losses
Clearance Officer: Carrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC. 20224
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Douglas J. Colley,

Departmental Reports Management Office.

[FR Doc. 86-14646 Filed 6-27-86; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

June 24, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0074
Form Number: IRS Form 1040 and Related Schedules A, B, C, D, E, F, G, R, SE, & W
Type of Review: Revision
Title: U.S. Individual Income Tax Return
OMB Number: 1545-0214
Form Number: IRS Form 5695
Type of Review: Revision
Title: Residential Energy Credit Carryforward
OMB Number: 1545-0675
Form Number: IRS Form 1040EZ
Type of Review: Revision
Title: U.S. Individual Income Tax Return
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Douglas J. Colley,

Departmental Reports Management Office.

[FR Doc. 86-14647 Filed 6-27-86; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

[T.D. 86-122]

Revised Customs Form 3461, Entry/Immediate Delivery

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document advises the public that Customs has revised Customs Form 3461, now called, Entry/Immediate Delivery, so that it will contain sufficient information to be used in the automated cargo selectivity system. This system allows approximately 80 percent of imported merchandise to be released from Customs custody without actual examination. The revised form is also capable of integration into the Automated Commercial System which will allow brokers and importers to file an entry and secure release of merchandise by computerized electronic data transfer. The revised Customs Form 3461 is reprinted as an attachment to this document.

EFFECTIVE DATE: The revised version of Customs Form 3461 may be used immediately. Previous versions can be used until September 2, 1986, after which only the revised form may be used.

FOR FURTHER INFORMATION CONTACT: Jerrald Worley or Shirley Rosen, Office of Cargo Enforcement and Facilitation (202-566-8151), or Dale Snell, Program Planning Staff (202-566-5865); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

SUPPLEMENTARY INFORMATION:.

Background

All merchandise imported into the U.S., unless specifically exempted, must be presented to Customs for examination before it can be released from Customs custody and entered into the commerce of the U.S. Most merchandise is released upon presentation to Customs of an "entry" which contains sufficient information to identify the importer of record, make a written record of entry, and verify the existence of a bond to guarantee production of a follow-up entry summary together with the deposit of estimated duties, if applicable. Within 10 working days after release of the merchandise, entry summary documentation, together with the deposit of estimated duties, if applicable, must be furnished to Customs. This documentation enables Customs to properly classify and appraise the merchandise, as well as to collect necessary statistical information. Entry and release of merchandise are provided for in Section 448, Tariff Act of 1930, as amended (19 U.S.C. 1448). The procedures relating to the entry process are set forth in Parts 141 and 142, Customs Regulations (19 CFR Parts 141, 142).

Customs Form 3461, entitled Immediate Delivery Application, is the source document now presented to Customs when making an entry. The form is filled out for each shipment of merchandise and presented to a Customs officer along with invoices and a right to make entry supported by a bond to obtain release of the merchandise. The information on this form allows Customs to verify that the correct shipment is released to the correct person, that it matches the carrier's manifest, and that an acceptable bond is on file.

As part of a continuing program to make the entry process more efficient, Customs developed an automated cargo selectivity system. This system currently allows approximately 80 percent of imported merchandise to be released without actual examination. This system stores information in our computers about certain categories of merchandise and about importers which are known, or suspected to be involved in high risk, prohibited, or restricted importations. The current Customs Form 3461 does not contain sufficient information to be used in the selectivity program. Therefore, importers have been providing supplemental documents to Customs with the necessary information in order to expedite release of their shipments.

In an effort to reduce the paperwork burden on the public, and provide better service to carriers, brokers, and importers, after extensive negotiations with the National Customs Brokers and Freight Forwarders Association of America, Customs has revised the Customs Form 3461. The new version of the form, now called Entry/Immediate Delivery, provides for the numeric or alphabetic coding of information such as entry type, tariff classification, port of entry, carrier, and country of origin of the merchandise. This allows full integration into the automated cargo selectivity system and rapid processing and release of merchandise. The form is also aligned with the requirements of Customs Automated Commercial System which allows brokers and importers to file an entry and secure a release of merchandise through electronic data transfer. The revised form is also compatible with Optical Character Reader (OCR) equipment which, if introduced at a later date, will further speed processing.

The revised version of Customs Form 3461 may be used immediately. Previous versions can be used until September 2, 1986, after which only the revised form may be used. The Customs Form 3461 Alternate has not been revised. The revised Customs Form 3461 is reprinted as an attachment to this document. Copies of the form and the instructions are also available from district directors of Customs pursuant to the provisions of § 24.14, Customs Regulations (19 CFR 24.14). For those wishing to print their own copies of the form, a specification sheet is included. The revised Customs Form 3461 has been approved by the OMB and assigned control number 1515–0069.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved:

Michael H. Lane,

Acting Assistant Secretary of the Treasury.

June 18, 1986.

BILLING CODE 4820-02-M

TABS:

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

Form Approved
OMB No. 1515-0069

ENTRY/IMMEDIATE DELIVERY

19 CFR 142.3, 142.16, 142.22, 142.24

1. ARRIVAL DATE	2. ELECTED ENTRY DATE	3. ENTRY TYPE CODE/NAME	4. ENTRY NUMBER
5. PORT	6. SINGLE TRANS. BOND	7. BROKER/IMPORTER FILE NUMBER	
	8. CONSIGNEE NUMBER		9. IMPORTER NUMBER
10. ULTIMATE CONSIGNEE NAME		11. IMPORTER OF RECORD NAME	
12. CARRIER CODE	13. VOYAGE/FLIGHT/TRIP	14. LOCATION OF GOODS—CODE(S)/NAME(S)	
15. VESSEL CODE/NAME			
16. U.S. PORT OF UNLADING	17. MANIFEST NUMBER	18. G.O. NUMBER	19. TOTAL VALUE
20. DESCRIPTION OF MERCHANDISE			

21. IT/BL/AWB CODE	22. IT/BL/AWB NO.	23. MANIFEST QUANTITY	24. TSUSA NUMBER	25. COUNTRY OF ORIGIN	26. MANUFACTURER NO.

27. CERTIFICATION

I hereby make application for entry/immediate delivery. I certify that the above information is accurate, the bond is sufficient, valid, and current, and that all requirements of 19 CFR Part 142 have been met.

SIGNATURE OF APPLICANT

X

PHONE NO. | DATE

29. BROKER OR OTHER GOVT. AGENCY USE

28. CUSTOMS USE ONLY

☐ OTHER AGENCY ACTION REQUIRED, NAMELY:

☐ CUSTOMS EXAMINATION REQUIRED.

☐ ENTRY REJECTED, BECAUSE:

DELIVERY AUTHORIZED: | SIGNATURE | DATE

Paperwork Reduction Act Notice: This information is needed to determine the admissibility of imports into the United States and to provide the necessary information for the examination of the cargo and to establish the liability for payment of duties and taxes. Your response is necessary.

BILLING CODE 4820-02-C

Customs Form 3461 (112085)

Summary Specifications for Customs Form 3461

General Description—5-Part marginally punched continuous form compatible with IBM 370/155 and typewriter. Part 1 to be compatible with Dest model 213 OCR reader.

Size—overall: Width 9 1/2 inches, depth 11 inches

Paper, Description, Color of Ink

Part No.	Paper—Basis 500 sheets 17 × 22"			Ink
	Color	Kind	Sub. No. (latitude)	
1	White	CW Bond	20	Sinclair Valentine Red #J25083.
2	White	CW Bond	9–10	Standard Black.
3	White	CW Bond	9–10	Standard Black.
4	White	CW Bond	9–10	Standard Black.
5	Yellow	CW Bond	15	Standard Black.

Note: Specs for parts 2-4 same as previous edition of form.

Joining—Crimp and firm glue left margin and crimp right margin.

Interleaving Carbons—Black narrow unpunched 3/8" short on left and 3/4" short on right.

Perforations—Marginal—1/2" from left and right side, parts only. Tearline—Horizontal tearline perforations, parts and carbons, to be provided every 11" between forms.

Punching—5/32 inch diameter round holes spaced vertically 1/2 inch center to 1/4 inch from left and right edges.

Revised 2/86.

[FR Doc. 86–14675 Filed 6–27–86; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on Readjustment Problems of Vietnam Veterans will be held in the Omar Bradley Conference Room on July 10 and 11, 1986, of Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. Both meetings will begin at 8:45 a.m. and conclude at 4:30 p.m.

These meetings will be open to the public up to the seating capacity of the room. Anyone having questions concerning the meetings may contact Arthur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Veterans Administration Central Office (phone number 202–389–3317/3303).

Dated: June 16, 198.

By direction of the Administrator.

Dennis R. Boxx,

Acting ADA for Public and Consumer Affairs.

[FR Doc. 86–14678 Filed 6–27–86; 8:45 am]

BILLING CODE 8320-01-M

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Meeting

In accrodance with Pub. L. 92–463, the Veterans Administration gives notice of a meeting of the Scientific Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Vista International Hotel, 1400 "M" Street NW., Washington, DC 20005, July 15 through July17, 1986, beginning at 6:30 p.m. on Tuesday. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the July 15 session for approximately one–two hours to cover administrative matters and to discuss the general status of the program and the administrative details of the review process. During the closed session, the Board will be reviewing research and development applications. This review involves oral comments, discussion of site visits, staff and consultant critiques of research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy.

Proprietary data from contractors and private firms will also be presented and this information should not be disclosed in a public session. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with section 552b, subsection (c)(4), (c)(6) and (c)(9)(B), Title 5, United States Code and the determination of the Administrator of Veterans Affairs under sections 10(d) of Pub. L. 92–463 as amended by section 5(c) of Pub. L. 94–409.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Larry P. Turner, Ph.D., Administrative Officer, Rehabilitation Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420, Phone: 202–389–5177 at least 5 days before the meeting.

Dated: June 20, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–14679 Filed 6–27–86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 125
Monday, June 30, 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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1

FARM CREDIT ADMINISTRATION

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of a forthcoming meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on July 1, 1986, from 10:00 a.m. until such time the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 (703–883–4010).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

1. Approval of Minutes of June Meeting.
2. Review of Agency Position on FCA Appointments to Farm Credit District Boards.
*3. Consideration of Request by officials of the Farm Credit System Capital Corporation for access to Certain Documents.
*4. Status Report on Examinations.

Kenneth J. Auberger,

Acting Chairman, Farm Credit Administration Board.

[FR Doc. 86–14806 Filed 6–26–86; 12:59 pm]
BILLING CODE 6705–01–M

*Closed Session—exempt pursuant to 5 U.S.C. 552b(c) (8) and (9).

federal register

Monday
June 30, 1986

Part II

Federal Emergency Management Agency

Federal Response to a Catastrophic Earthquake, Final Proposed National Plan

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Response to a Catastrophic Earthquake, Final Proposed National Plan

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Publication of the operative National Plan for Federal Response to a Catastrophic Earthquake.

SUMMARY: Based upon a requirement of the Earthquake Hazards Reduction Act, the National Plan for Federal Response to a Catastrophic Earthquake (referred to as the National Plan) is hereby published as the basis for Federal response to assist state and local governments impacted by a catastrophic earthquake or, if appropriate, another catastrophic natural event. The National Plan focuses on providing supplemental support during emergency response operations to save lives and protect property. Individual department and agency emergency authorities as well as assignments of responsibility under the provisions of the Disaster Relief Act of 1974 to accomplish this support are identified in the National Plan. Delivery of Federal assistance will be managed and coordinated by the Federal Coordinating Officer, as authorized by section 303 of the Disaster Relief Act.

A notice to initiate Federal planning was published in the **Federal Register** March 4, 1983, 48 FR 9466. Since that time, departments and agencies at the National level have participated in development of four draft National Plans and one headquarters tabletop exercise. In 1985, the National effort was combined with that of the effort coordinated by FEMA Region IX in San Francisco. Draft Four of the National Plan and the FEMA Region IX Earthquake Response and Assistance Plan were tested in a three-day major exercise, RESPONSE 85, held June 18–20, 1985.

The results of RESPONSE 85 as well as lessons learned from the tragic Mexican earthquake of September 1985 have been incorporated into the National Plan. The National Plan establishes the policies, responsibilities, and concept of operations that will be the basis for Federal response. It further establishes the requirement to develop interagency regional Federal plans for response to a catastrophic earthquake in *any* area of the country.

Until the National Plan is finalized and published, this document shall serve as the basis for Federal response. Based on a Presidential major disaster declaration, the FEMA Director has the authority to determine that an earthquake is catastrophic and thereby implement the National Plan.

DATES: Comments on the National Plan are encouraged. Comments received within sixty days from date of publication will be taken into consideration in final revisions to the National Plan and in follow on regional response planning efforts.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 840, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Hugh F. Richardson or Mary Ellen Stemper, Division of Response Planning and Coordination, Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, telephone (202) 646–3611 or (202) 646–3665, respectively.

SUPPLEMENTARY INFORMATION: FEMA has responsibility as the lead agency for managing and coordinating the National Earthquake Hazards Reduction Program established by the Earthquake Hazards Reduction Act. A requirement of the program is to improve the capability of all levels of government to respond to the effects of a catastrophic earthquake in any of the high-population risk areas in such a way as to reduce the loss of life and property. In addition, FEMA is responsible for coordination and implementation of programs of assistance under provisions of Executive Order 12148 and the Disaster Relief Act of 1974.

Under the auspices of the Interagency Coordinating Committee of the National Earthquake Hazards Reduction Program, FEMA chairs the Subcommittee on Federal Earthquake Response Planning. The Subcommittee will continue as the coordinating mechanism for maintaining the National Plan and conducting regional response planning through all FEMA regions.

Other supplementary information is outlined in the National Plan included in this notice. After the comment period, Federal department and agency officials will be requested to sign the following Letter of Agreement, which will be included in the final National Plan.

Samuel W. Speck,

Associate Director, State and Local Programs Support.

Letter of Agreement

The National Plan For Federal Response to a Catastrophic Earthquake (hereafter referred to as the National Plan) establishes the basis for fulfilling the Federal Government's responsibilities to State and local governments impacted by a catastrophic earthquake or, if appropriate, another catastrophic natural event. By signature hereon, the Federal officials with responsibilities in the National Plan agree to prepare for and carry out its provisions.

The National Plan is based on the fundamental assumption that a catastrophic earthquake will overwhelm the capability of State and local governments to carry out the extensive emergency operations that will be necessary to save lives and protect property. Consequently, resources and authorities of Federal departments and agencies have been grouped into broad categories of response activities, called emergency support functions, to provide Federal assistance. Primary and support agency responsibilities have been identified for each of these functions. Signature on this letter constitutes acceptance of responsibility for the specific assignments.

Under the provisions of Pub. L. 93–288, the Disaster Relief Act of 1974, as amended, a Federal Coordinating Officer (FCO) will be appointed as the President's representative to coordinate overall delivery of Federal assistance. Federal officials will be designated for each department and agency to carry out the provisions of the National Plan, and will be responsive to the overall management and direction by the FCO.

The Subcommittee on Federal Earthquake Response Planning is recognized as the interagency organization responsible for overall coordination of planning and exercising efforts required to develop and maintain a Federal response capability. The Subcommittee is chaired by the Federal Emergency Management Agency (FEMA) and includes representatives of each of the Federal departments and agencies identified in the National Plan. Members of the Subcommittee are responsible to their department or agency officials for changes required to improve the National Plan and for department or agency participation in response planning and exercising activities. Changes or issues which cannot be resolved at the Subcommittee level will require approval by the heads of the appropriate departments or agencies.

To fulfill their responsibilities in the National Plan, the undersigned agree to ensure that sufficient resources are available to develop and maintain the supplemental internal and regional planning that must be done to establish a coordinated Federal response structure.

Many aspects of the National Plan have been developed as a result of lessons learned from response operations after the catastrophic earthquake in Mexico in September 1985. The tragedy of that event serves as a reminder that the United States is also vulnerable to the devastating effects of a powerful earthquake in some of our high-risk, high-population areas. By agreeing to the provisions of the National Plan, the undersigned willingly accept responsibility to contribute to a coordinated, timely Federal response to supplement the capabilities of State and local governments.

Signatures: Heads of the 25 Federal departments and agencies.

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Terms and Definitions

The terms and definitions used in the National Plan are consistent whenever possible with other current response community terminology. Those which are specific to a catastrophic earthquake, the Disaster Relief Act of 1974, or the intent of this National Plan are listed below. This is not exhaustive. Individual annexes may contain terms unique to a specific Emergency Support Function (ESF); if so, those terms are defined in the appropriate annex.

(1) *Assistance Phases.* The four phases of planning and response related to a catastrophic earthquake are as follows:

(a) *Prediction Response.* The phase that would occur 48 to 96 hours before the earthquake. It would consist of a series of preparatory actions taken by Federal, State, and local governments to protect life and minimize effects of the potential event on response personnel and equipment. These actions facilitate the deployment of resources necessary for immediate response and initial recovery operations.

(b) *Immediate Response.* The phase from the onset of the earthquake to approximately 30 days afterward, or those periods caused by aftershocks. The functions performed during this phase are critical to saving and protecting lives and property and meeting basic human needs and are reflected in this Plan.

(c) *Initial Recovery.* The phase traditionally associated with providing Federal supplemental disaster recovery assistance upon Presidential declaration. This phase probably will overlap the immediate response phase, beginning several days or weeks after the earthquake and lasting up to 2 years. Typical functions to be performed are associated with the establishment of the Federal mechanism for delivery of disaster assistance (i.e., public and individual assistance as provided for in Pub. L. 93–288; staffing of Disaster Assistance Centers; provision of temporary housing; and Federal disaster loans and grants).

(d) *Long-Term Restoration and Recovery.* The phase after onset of the event, during which time the designated areas would be restored to their normal or an improved state. The Federal role in the process would be to coordinate policy development through the authorities associated with provision of Federal funds and assistance.

(2) *Catastrophic Disaster Response Group (CDRG).* A group of representatives from the Federal departments and agencies which have National Plan support responsibilities. The CDRG's primary role is that of a centralized, liaison coordinating group available at the call of the chairperson. Its members have timely access to the appropriate policymakers in their respective parent organizations to facilitate decisions on problems and policy issues should they arise. The CDRG oversees the national-level response support effort and coordinates the efforts of the ESF primary and support agencies in supporting Federal regional requirements. The CDRG serves as a mechanism to bring to bear all Federal authorities, resources, capabilities, and expertise that can contribute to an enhanced Federal response capability.

(3) *Catastrophic Earthquake.* There is no commonly accepted definition of a "catastrophic" earthquake. Whether a given earthquake qualifies as catastrophic depends on the combined effect of geologic parameters (e.g., magnitude, duration, type of earth movement, etc.), environmental parameters (e.g., location, time of occurrence, existing weather conditions, etc.), sociological parameters (e.g., preparedness of the population, warning, enhanced building construction, etc.), and destructive parameters (e.g., building damage and collapse, damage to infrastructure and systems, etc.). For the purpose of this Plan, a catastrophic earthquake is defined as a seismic event or series of seismic events that results in large numbers of deaths and injuries; extensive damage or destruction of facilities that provide and sustain human needs; an overwhelming demand on State and local response resources and mechanisms; a severe impact on national security facilities and infrastructures that sustain them; a severe long-term effect on general economic activity; and severe effect on state, local, and private sector initiatives to begin and sustain initial response activities.

(4) *Designated Area.* The area designated in the major disaster declaration which is eligible to receive disaster assistance in accordance with the provisions of Pub. L. 93–288, as amended.

(5) *Disaster Field Office (DFO).* The temporary office established in or near the designated area from which the

Federal Coordinating Officer (FCO), his/her staff, the Emergency Support Team (EST), and where possible, the State Coordinating Officer, his/her staff, and the regional response organizations coordinate response activities.

(6) *Emergency.* "Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster" (Pub. L. 93–288).

Note.—For the purpose of implementing this Plan for emergency lifesaving and life-protecting activities in response to a catastrophic earthquake, there is no significant difference between a Presidential emergency or major disaster declaration.

(7) *Emergency Support Function ESF.* A major category or functional area of response activity established to facilitate coordinated Federal delivery of assistance required during the immediate response phase after a catastrophic earthquake to save lives, protect property and public health, and maintain public safety. The ESF represent those types of Federal assistance which the State likely will need most because of the overwhelming impact of a catastrophic earthquake on a State's own resources and response capabilities or because of the specialized or unique nature of the assistance. ESF support will be time sensitive and nationwide in scope, flowing into the designated area from throughout the United States. ESF support is designed to supplement State and local response efforts.

(8) *Emergency Support Team EST.* A team consisting of the lead representative from each Federal department or agency assigned primary responsibility for an Emergency Support Function (ESF) and key members of the Federal Coordinating Officer's (FCO) staff formed to assist the FCO in carrying out his/her responsibility pursuant to Pub. L. 93–288. The EST provides a forum for coordinating the overall Federal response, reporting on the conduct of specific operations, exchanging information, and resolving issues related to ESF and other response requirements. EST members respond to and meet as requested by the FCO. The EST may be expanded by the FCO to include designated representatives of other Federal departments and agencies as needed.

(9) *Federal Coordinating Officer (FCO).* The senior Federal official appointed to act for the President in accordance with the provisions of Pub. L. 93–288. The FCO represents the President as provided by section 303 of Pub. L. 93–288 for the purpose of coordinating the administration of Federal relief activities in the designated area. Additionally, the FCO is delegated and performs those responsibilities of the Federal Emergency Management Agency (FEMA) Director outlined in Executive Order 12148 and those responsibilities delegated to the FEMA Regional Director in the Code of Federal Regulations Title 44, Part 205.

(10) *High-risk, High-population Areas.* Heavily populated areas of the United States particularly susceptible to high-intensity earthquakes for which Federal emergency response may be necessary. FEMA is currently supporting State and local emergency response and preparedness projects in these areas: Honolulu, HI; San Diego, Los Angeles, and San Francisco, CA; Puget Sound, WA; Anchorage, AK; Salt Lake City, UT; the seven-state area of the central US (MO, KY, TN, MS, AR, IN, IL); Charleston, SC; Boston, MA; New York; Puerto Rico; and the Virgin Islands.

(11) *Major Disaster.* "Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Federal Disaster Relief Act, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby" (Pub. L. 93–288).

(12) *Primary Agency.* The Federal department or agency assigned primary responsibility to manage and coordinate a specific ESF. Primary agencies are designated on the basis of their having the most authorities, resources, capabilities, or expertise relative to accomplishment of the specific ESF support. Primary agencies are responsible for overall planning and coordination of, in conjunction with their support agencies, the delivery of ESF-related Federal assistance to their State counterparts. The primary agencies serve as Federal executive agents with whom the FCO works during response operations to accomplish the ESF support.

(13) *State Coordinating Officer (SCO).* The person appointed by the Governor of the affected state to coordinate State and local response efforts with those of the Federal Government.

(14) *Support Agency.* A Federal department or agency designated to assist a specific primary agency with available resources, capabilities, or expertise in support of ESF response operations, as coordinated by the representative of the primary agency.

NATIONAL PLAN FOR FEDERAL RESPONSE TO A CATASTROPHIC EARTHQUAKE: BASIC PLAN

I. Introduction

Over the past 10 years the Federal Government has assessed the vulnerability of selected high-risk, high-population areas of the United States (U.S.) to the effects of a catastrophic earthquake. Results indicate that the impact of such an event would transcend any disaster that has occurred previously within the U.S. A catastrophic earthquake is the most likely event, short of war, in which the entire Federal Government would be called upon to assist State and local governments in their efforts to save lives and protect property. Therefore, the National Plan for Federal Response to a Catastrophic Earthquake (hereafter referred to as the National Plan or Plan) has been based on anticipated needs after a catastrophic earthquake. The provisions of the National Plan could be applied to any catastrophic natural event which required support from the Federal Government during emergency response operations.

The National Plan is based on the premise that a broad spectrum of Federal assistance will be required from around the Nation in a time-sensitive manner to support State and local emergency response operations. Federal resources, capabilities, authorities, and expertise have been organized into categories of response activity called Emergency Support Functions (ESF). Primary and support agency responsibilities for each ESF have been identified during the planning process.

Another basic planning assumption is that a Presidential major disaster declaration, if requested by the Governor of the affected State, will be immediate and the incident period will coincide with the catastrophic event. Federal departments and agencies will use their independent emergency authorities and funds to the extent available. Upon implementation of the National Plan, departments and agencies are given authority under

Public Law (Pub. L.) 93–288, the Disaster Relief Act of 1974, to carry out the provisions and intent of the National Plan. This authority will be valid for 30 days after the National Plan has been implemented.

Concurrent with the Presidential declaration, a Federal Coordinating Officer (FCO) will be appointed to act on-scene for the President in accordance with the provisions of Pub. L. 93–288. As the President's representative, the FCO will be responsible for coordinating the overall Federal response and for managing the delivery of Federal response programs under the provisions of Pub. L. 93–288.

The National Plan establishes policies, responsibilities, a concept of operations, and coordination mechanisms for Federal response to a catastrophic earthquake in any area of the country. It is designed to support Federal regional response plans which will contain detailed procedures and operational responsibilities to implement the policies and provisions of the National Plan. If a catastrophic earthquake—or another catastrophic natural event—occurs in an area where a regional response plan has not been developed, the National Plan will be used as the basis for Federal response.

A. Purpose

The National Plan prescribes the Federal response concept, policies, and responsibilities intended to ensure adequate and timely support to State and local governments immediately following a catastrophic earthquake. The National Plan establishes a framework for systematic, coordinated, and effective Federal response by:

(1) Establishing basic policies and planning assumptions,

(2) Establishing a concept of operations that provides an interagency coordinating mechanism for immediate delivery of Federal assistance,

(3) Identifying specific Federal capabilities to supplement State and local response operations,

(4) Assigning specific functional responsibilities to appropriate Federal departments and agencies, and

(5) Identifying actions which Federal organizations will take to facilitate and enhance the overall Federal response effort to support State and local emergency lifesaving needs.

B. Scope

This National Plan applies to all elements of the Federal Government which are expected to support the planning effort and to respond automatically and immediately to a catastrophic situation upon Plan implementation.

The National Plan outlines those Federal actions and activities to be taken during the immediate response phase. These response actions and activities are designed to support State and local government efforts to save lives, protect property and public health, and maintain public safety. Actions and activities identified under Federal agency statutory authorities or based on assignments under the provisions of Pub. L. 93–288 are for response support purposes only. This Plan is not applicable to actions related to initial and long-term recovery efforts, for which traditional disaster assistance mechanisms will apply.

II. Policies

1. State and local governments are in charge of emergency response operations. Federal assistance under the provisions of Pub. L. 93–288 will supplement State and local government response efforts.

2. The Director, Federal Emergency Management Agency (FEMA) or his/her designated representative has the authority for determining if an earthquake is designated as catastrophic and for implementing the National Plan. The Plan will be implemented after a Presidential major disaster declaration, and as such will serve as a mission assignment to the designated departments and agencies given primary and support responsibilities. Once implemented, the provisions remain in effect for 30 days unless changed or extended at the discretion of the FCO.

3. After the Presidential declaration and implementation of the National Plan, the FEMA Regional Director (RD) will implement the regional response plan. Regions which lack plans will use this Plan and its response mechanisms to conduct response operations if a catastrophic earthquake affects areas within the region.

4. In accordance with Section 303 of Pub. L. 93–288, an FCO will be appointed to operate in the designated area. The FCO will be the representative of the President and will be responsible for coordinating and managing the Federal response. Authorities of the FCO will include those delegated in Executive Order (E.O.) 12148 to the Director, FEMA and those delegated to the FEMA Regional Director in 44 Code of Federal Regulations (CFR), Part 205, for carrying out provisions of Pub. L. 93–288. Additionally, an Emergency Support Team (EST) will be formed and deployed in the designated area in accordance with Section 304 of Pub. L. 93–288 to assist the FCO in carrying out his/her responsibilities.

5. The Governor of the affected State will be advised of the FCO's designation and asked to designate a State Coordinating Officer (SCO) as the FCO's principal point of contact. The FEMA RD of the affected region will carry out the responsibilities of the FCO until this official is designated and arrives in the disaster area. The FCO and SCO will ensure effective and coordinated operating relationships among Federal, State, local, volunteer, and private organizations.

6. Prior to a Presidential declaration, Federal departments and agencies will provide direct disaster assistance and support according to their statutory authority, functions, resources, and capabilities. Following a Presidential declaration and upon National Plan implementation, those activities not already underway will begin immediately in accordance with the provisions and authorities of this Plan. Federal support and disaster assistance will be provided under the coordination of the FCO. Relevant emergency authorities and directives are identified in Appendix C to this Plan.

7. Federal departments and agencies shall use their own independent authorities and funds for response support to the full extent that those authorities and funds exist. A FEMA funding code for Pub. L. 93–288 expenditures will be provided to all organizations with notification of implementation of the National Plan or shortly thereafter. Departments and agencies will request reimbursement of and account for funds expended in support of a catastrophic earthquake response effort in accordance with the Emergency Management and Assistance Regulation (44 CFR Part 205, Subpart I—Reimbursement of Other Federal Agencies) and paragraph 8 below. (See Appendix B for additional information.)

8. Those Federal organizations designated as primary agencies serve as Federal executive agents responsible for accomplishing their ESF response support requirements. As such, the primary agencies are given authority to task their designated ESF support agencies as necessary to accomplish the Pub. L. 93–288-related response support prescribed in their mutual ESF annex(es). Such authority includes primary agency responsibility to review and validate all support agency requests for reimbursement of Pub. L. 93–288 expenditures.

9. The Subcommittee on Federal Earthquake Response Planning, established under the auspices of the

Interagency Coordination Committee of the National Earthquake Hazards Reduction Program, is composed of designated representatives of the Federal departments and agencies involved in Federal earthquake response planning. The Subcommittee will continue as the coordinating body for response planning and exercise activity. The Subcommittee is responsible for providing guidance and direction for regional sitespecific plans.

10. FEMA regions are responsible for coordinating development of Federal interagency, regional response plans based on the policies, responsibilities, and concept of operations outlined in this Plan.

11. Regional response plans will contain the same ESF and primary and support agency assignments contained in this Plan. Recommended changes to or modifications of regional plans should be brought to the attention of the Subcommittee on Federal Earthquake Response Planning for approval. If the Subcommittee cannot resolve recommendations or issues, the matter will be resolved by the appropriate department and agency heads.

12. Federal departments and agencies will develop and maintain supplemental plans and procedures to ensure their responsibilities can be carried out during actual or simulated implementation of the National Plan. Some of the types of actions that should be addressed in regional, departmental, and agency plans include:

(1) Establishing procedures to ensure personnel are designated and available to respond when notified that this National Plan is in effect, to include replacements to maintain 24-hour operations;

(2) Ensuring assigned personnel are trained and prepared to respond; and

(3) Developing and maintaining resource identification and application procedures.

13. All Federal departments and agencies will be prepared to augment their staff personnel in an affected region, to include providing backup personnel for a region that is incapacitated operationally. Procedures to accomplish assumption of those responsibilities will be included in regional response plans.

14. If a State's emergency management structure is incapacitated, the FCO and the FEMA RD, based upon a request by the Governor, will be prepared to coordinate management of major time-sensitive activities until State and local authorities are reconstituted sufficiently to direct response efforts.

15. Emergency operations required on Federally owned property remain the responsibility of the Federal Government and will be conducted in accordance with individual Federal department and agency authorities and plans. However, response by departments and agencies to the lifesaving purposes of this National Plan will take precedence over other Federal response activities except where national security implications need to be considered.

16. Following Federal response to an actual catastrophic earthquake, the Director, FEMA will direct preparation of a coordinated after-action report documenting the Federal response effort. Each Federal department and agency involved in the response effort will keep vital records and will assist in preparing the after-action report.

17. This Plan will be exercised periodically in conjunction with Federal departments and agencies, including regional offices, and State and local governments. FEMA, in cooperation with Federal-level response organizations, will use the exercise and review process to update this Plan and to improve overall Federal preparedness for response to a catastrophic earthquake.

III. Situation

A. Disaster Condition

A catastrophic earthquake in a high-risk, high-population area will cause casualties, property loss, disruption of life support systems, and collapse of regional economic and social infrastructures. A catastrophic earthquake is unique among natural disasters in that it occurs essentially without warning and causes widespread damage to facilities and systems needed to support the response effort. Aftershocks will further affect already weakened structures and disrupt response operations.

The number of victims and extent of damage depend on factors such as time of occurrence, existing weather conditions, area demographics, severity of aftershocks, building construction, etc. The number of victims may total into the hundreds of thousands. Deaths and injuries will occur principally from the collapse of manmade structures and collateral events, such as fires, mudslides, etc., triggered by the earthquake.

Property losses will total in the billions of dollars. The earthquake may trigger fires, floods, or other natural disasters that would multiply property losses and hinder the immediate emergency response effort. The highway, airport, railway, marine, communications, water, waste disposal, electrical power, natural gas, and petroleum transmission systems in and around the designated area will be damaged and in some cases destroyed. Broken waterlines will hamper fire fighting efforts severely, while damage to surface transportation systems will hamper rescue and fire control efforts.

B. Planning Assumptions

The following assumptions serve as a basis for development of the National Plan.

1. The catastrophic earthquake will occur without warning and at a time of day that will produce maximum casualties. Nonresident population (work force and tourists, to include foreign nationals) will be in the designated area. The affected State's resources and capabilities to respond to and cope with the casualties and destruction wrought by the earthquake will be overwhelmed and inadequate.

2. The large number of casualties and the heavy damage to buildings, structures, and lifeline systems caused by the catastrophic earthquake will necessitate direct involvement of the Federal Government in lifesaving and life-supporting efforts in the designated area. Further, it will require expeditious delivery of massive Federal assistance and resources from throughout the United States.

3. A Presidential major disaster declaration or emergency determination under the provisions of Pub. L. 93–288 will be issued immediately (within a few hours at the most) and will be made to coincide with the catastrophic earthquake occurrence.

4. The likelihood of significantly increased numbers of deaths within 72 hours following the earthquake of persons trapped in damaged or destroyed structures will require an automatic and immediate infusion of Federal search and rescue personnel and specialized resources to minimize the number of additional casualties.

5. Federal departments and agencies will need to respond automatically and immediately to a catastrophic earthquake, and to fully accomplish those responsibilities and support requirements outlined in this National Plan. The traditional verbal mission assignment and follow-up letter process will not be sufficient to trigger the immediate, massive, integrated Federal support effort needed to respond adequately to the earthquake event. Therefore, the National Plan needs to serve as a replacement mechanism for specific mission assignments.

IV. Concept of Operation

A. General

The concept of operations provides for a massive, integrated Federal response effort to supplement state and local emergency response actions immediately following a catastrophic earthquake. The concept focuses on the Federal structure for coordination of the Federal response at both national and regional levels. Details of the coordination of the Federal response are outlined in Appendix A to this Plan. The concept of operations calls for an automatic response by Federal organizations to carry out the provisions of this National Plan immediately following implementation of the Plan. It takes into consideration the large influx of response personnel and resources expected into the designated area from throughout the United States.

B. Organization

The Federal national-level and regional-level response structures which will provide the nucleus for coordination of the Federal response to a catastrophic earthquake are depicted in Figure 1.

1. National-Level Response Support Structure

a. The CDRG, chaired by the FEMA Associate Director, SLPS (or designated representative), functions as a centralized, liaison coordinating group at the call of the CDRG chairperson. The CDRG includes representatives from the Federal departments and agencies which have National Plan support responsibilities. The CDRG satisfies the need for a Federal element to coordinate national-level response actions in support of the regional response and the FCO. The CDRG serves as a forum for its members to meet and discuss national-level Federal response concerns and support to the FCO. The CDRG also serves, at the national level, as a central source for the status of Federal departments and agencies response support actions. The CDRG members serve as a conduit for information about their parent organizations' response activities. The CDRG may be augmented by officials from other organizations, not identified in this Plan, having resources, capabilities, or expertise necessary to the Federal response effort. The CDRG oversees and guides the response support activities of the ESF primary and support agencies. Figure 2 depicts the membership of the CDRG and the Federal organizations having primary responsibility for each ESF.

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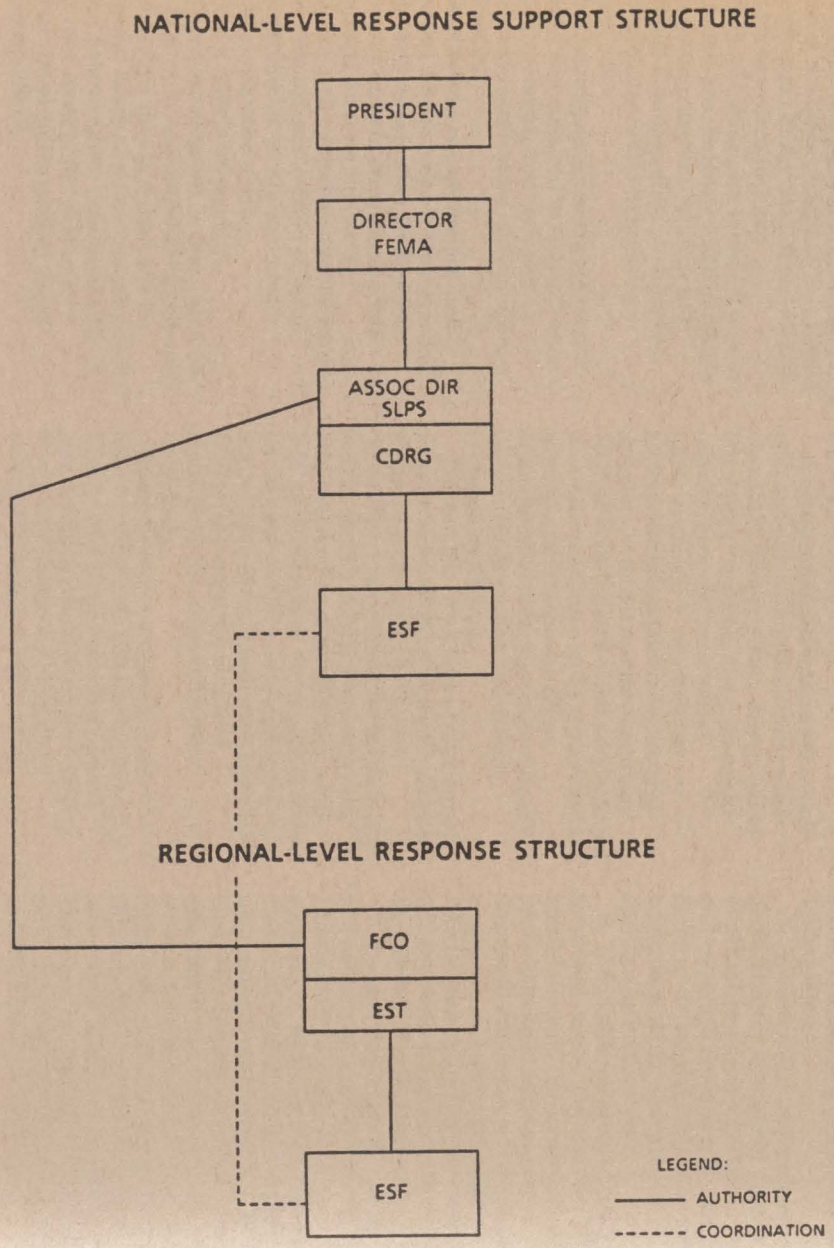
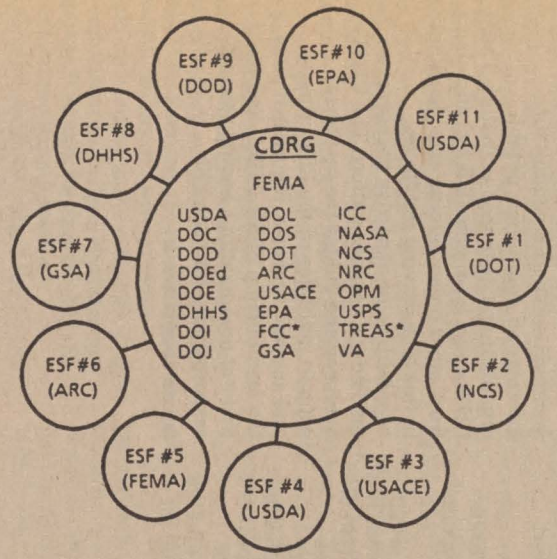


Figure 1. National- and Regional-Level Response Structures



NOTES:
1. Primary agencies are identified in the small circles
2. All organizations listed in the large circle except for the USACE and those identified by an asterisk are designated as support agencies for one or more ESF.

* Identifies an organization not aligned with a specific ESF

EMERGENCY SUPPORT FUNCTIONS

1. Transportation
2. Communications
3. Construction Management
4. Fire Fighting
5. Damage Information
6. Mass Care
7. Resources Support
8. Health and Medical Services
9. Urban Search and Rescue
10. Hazardous Materials
11. Food

Figure 2. National-Level Response Support Structure: CDRG and the ESF

b. The specific ESF are managed and coordinated overall by the designated primary agency representatives. Those representatives, in coordination with their regional counterparts and their national-level support agency representatives, ensure timely ESF support from the national level to the Federal regional response effort. The designated national-level support agency representatives, in coordination with their regional counterparts, assist their primary agency in accomplishing the ESF support requirements. The annexes to this Plan describe the ESF responsibilities and functions of the primary and support agencies, policies, concept of operations, and coordination and interfaces between agencies.

2. Regional-Level Response Structure

a. The FEMA RD implements the Federal regional response plan and coordinates Federal response efforts until the FCO arrives in the disaster area. Upon his/her arrival, the FCO assumes responsibility from the RD for overall coordination of Federal response support to the State and the management responsibilities of Pub. L. 93-288 programs. The FCO oversees, manages, and coordinates the response activities of the regional-level ESF primary and support agencies. The FCO guides and directs the activities of the EST. The FCO coordinates directly with the SCO for the Federal assistance being provided to the State and to determine the unmet needs and evolving support requirements of the State. In the event the designated area involves more than one state, an FCO may be appointed for each State, or one FCO may be appointed for the disaster area, with assistants assigned to coordinate support for the affected States.

b. The EST assists the FCO in carrying out his/her responsibilities by overseeing, directing, coordinating, and evaluating Federal response activities on-scene as requested by the FCO. Under the direction of the FCO, the EST resolves response support problems and issues of the regional-level primary and support agencies or else refers those problems and issues to the CDRG for resolution.

c. The regional-level primary agency representatives, in coordination with their regional-level support agency representatives, oversee and manage the ESF support provided directly to their state and local government counterparts. The regional-level support agency representatives assist their primary agency in accomplishing the ESF support requirements.

d. The Disaster Field Office (DFO) will serve as the primary field location for the FCO's operations. It will be staffed in accordance with the regional response plan and the FCO's requirements. The DFO will be operational within 6 to 12 hours after the decision to implement the National Plan. The DFO will operate 24 hours a day or as necessary to sustain Federal response operations. Where possible, FCO operations will be collocated with those of the SCO.

C. Notification

1. FEMA is the focal point for notifying the Federal response community that a catastrophic earthquake has occurred. FEMA will receive initial notification of a major earthquake from multiple sources. These sources could include the National Earthquake Information Center (NEIC) of the US Geological Survey (USGS), the FEMA National Warning Center, the FEMA region, a State emergency operations center, or the wire services and news media.

2. FEMA will notify the Federal departments and agencies having primary or support responsibilities as described in this Plan. Priority will be given to contacting organizations with primary responsibility for an ESF. Primary agency officials responsible for the ESF will notify the support agency representatives of the Plan implementation and annex requirements.

3. Upon notification by FEMA or the primary agency, each organization is responsible for conducting their internal notifications. In the event the catastrophic earthquake occurs in or near a heavily populated area, at the national level CDRG members and ESF primary and support agency representatives should consider reporting to their work stations prior to actual National Plan implementation. Based upon the emergency situation, the CDRG members may do one of the following:

(1) Place ESF primary and support agency representatives on telephone standby,

(2) Assemble a core element of ESF primary and support agency representatives with remaining representatives on telephone standby, or

(3) Assemble all ESF primary and support agency representatives.

4. Federal regional response notification and deployment should be carried out in accordance with established procedures.

5. Primary agency representatives should keep their CDRG members informed as to the status of response preparations according to their ESF annexes to this Plan.

6. When the Presidential major disaster declaration is issued and the decision is made to implement the National Plan, FEMA and the ESF officials will repeat the notification process.

D. Initial Actions

1. The FEMA RD will assess the capability of the affected State to cope with the magnitude of the problem and will recommend Federal actions deemed appropriate. Upon declaration of a major disaster and implementation of the National Plan and regional response plan, the RD will coordinate all actions necessary to ensure effective Federal support of State requirements until the FCO assumes those responsibilities.

2. All Federal response elements will take actions to assess the situation quickly and to identify in advance support actions which will contribute to response efforts and which can be started or accomplished immediately upon notification. Examples of these types of actions include Federal Aviation Administration (FAA) assessment of damage to airfields and the air traffic control system, Department of Defense (DOD) assessment of casualties and damage at military installations, DOD and Department of Energy (DOE) identification of immediately available aerial reconnaissance resources, etc.

3. The Director, FEMA will determine if the earthquake qualifies as catastrophic and take the necessary actions for submitting a recommendation to the President for approval of a major disaster declaration. Implementation of the National Plan will immediately follow the President's declaration.

4. Federal elements will establish communications channels between Washington-area and regional elements, and between regional and State elements. Additional communications requirements which may arise will be coordinated with and supported by the Communications ESF.

5. As chairperson of the CDRG, the Associate Director, SLPS will ensure activation of the CDRG and other support elements as dictated by the situation and in accordance with this Plan.

V. Responsibilities

A. Primary Agencies

1. FEMA

The Director, FEMA has the overall Federal coordination resoonsibility for developing, exercising, maintaining, and implementing this National Plan. The

Figure 1 - National- and Regional-Level Response Structures

Associate Director, State and Local Programs and Support (SLPS) will direct the planning process and establish a program for periodic exercise and review of the Plan. The Associate Director, SLPS has designated the Office of Disaster Assistance Programs (SL–DA), SLPS as the FEMA office having primary staff responsibility.

The FCO will be appointed concurrent with the Presidential declaration and in accordance with the provisions of Pub. L. 93–288 and E.O. 12148. The FCO's responsibilities are outlined in section 303 of Pub. L. 93–288 and, additionally, will include those of the FEMA Director for administration of Pub. L. 93–288 programs, as delegated to the FEMA Regional Director in Title 44 CFR, Parts 2 and 205.

Once the FCO is appointed and arrives in the disaster area, the FEMA RD will assist the FCO as requested.

2. Other Primary Agencies

Primary responsibility for management and coordination of each ESF is assigned to the Federal department or agency with the most authorities, resources, capabilities, or expertise in the specific functional area. Agencies having primary responsibility for an ESF are identified in Figure 3. Primary agencies have tasking authority over their designated support agencies to the extent necessary to accomplish their Pub. L. 93–288-related ESF support requirements.

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EMERGENCY SUPPORT FUNCTIONS

1 Transportation
2 Communications
3 Construction Management
4 Fire Fighting
5 Damage Information
6 Mass Care
7 Resources Support
8 Health and Medical Services
9 Urban Search and Rescue
10 Hazardous Materials
11 Food

ESF / ORG	1	2	3	4	5	6	7	8	9	10	11
USDA	S	S	S	P	S	S			S	S	P
DOC				S	S	S				S	
DOD	S	S	S	S	S	S	S	S	P	S	S
DOEd					S						
DOE					S		S			S	
DHHS					S	S	S	P	S	S	S
DOI	S	S	S	S	S	S			S	S	
DOJ							S			S	
DOL			S						S	S	
DOS										S	
DOT	P	S	S	S	S		S	S	S	S	S
ARC					S	P		S			S
USACE	S		P	S	S			S			
EPA			S		S					P	
FEMA	S	S	S	S	P	S	S	S	S	S	S
GSA	S	S	S	S	S	S	P		S		S
ICC	S										S
NASA					S						
NCS		P			S		S				
NRC					S					S	
OPM							S				
USPS	S					S					
VA					S	S	S	S	S		S

P - primary agency: responsible for management and coordination of the ESF.
S - support agency: responsible for supporting the primary agency.
Note - In addition to the above organizations, the Federal Communications Commission and the Department of the Treasury participate as required.

Figure 3. Emergency Support Functions Assignment Matrix

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At the national level, primary agencies will plan and coordinate with their support agencies for the delivery of ESF-related assistance. Primary agencies are responsible for preparing and maintaining functional-area annexes to this Plan to reflect the policies, assistance to be provided, and associated responsibilities of the designated primary and support agencies. Upon Plan implementation, primary agencies, in coordination with their support agencies, will interact with the Catastrophic Disaster Response Group (CDRG) to address ESF support problems and issues and to exchange information. Primary agency representatives are responsible for managing delivery of national-level ESF support to the regional effort as provided by its parent organization and the support agencies. Each primary agency also will:

(1) Designate an official to serve as a representative to the CDRG,

(2) Designate the office which will serve as the primary point of contact for all actions relating to the ESF,

(3) Designate an official to be responsible for the specific ESF,

(4) Provide direction and assistance to regional elements tasked to assist in planning and response operations at that level,

(5) Participate fully in the processes of exercising and reviewing response plans, and

(6) Develop supplemental instructions and standard operating procedures to ensure subordinate organizations will be able to respond effectively in support of State and local governments.

At the regional level, primary agencies will plan and coordinate with their support agencies for the delivery of assistance to their State and local counterparts. Primary and support agencies will use the National Plan as a basis for preparing regional response plans. Upon Plan implementation, primary agencies, in coordination with their support agencies, will interact with their State counterparts on-scene to address support problems and evolving unique requirements. Primary agencies will serve as Federal executive agents, as members of the FCO's EST, in working with the FCO to accomplish delivery of ESF-related support to the State. Regional-level primary agency representatives are responsible for managing delivery of that ESF support provided by its parent organization and the support agencies.

B. Support Agencies

ESF support agencies will assist the primary agency in preparing supporting annexes to the National Plan and regional response plans and will respond immediately to requirements when a catastrophic earthquake occurs. Each support agency also will:

(1) Designate officials to serve as representatives to the CDRG and to serve as requested on the FCO's EST,

(2) Designate the office which will serve as the primary point of contact for all actions relating to the ESF,

(3) Designate an official to support the specific ESF,

(4) Provide guidance and assistance to regional elements tasked to assist in planning and response operations at that level,

(5) Participate fully in the processes of exercising and reviewing response plans, and

(6) Develop supplemental instructions to ensure subordinate organizations will be able to respond effectively in support of State and local governments.

C. Other Federal Organizations

Other Federal departments and agencies have authorities, resources, capabilities, or expertise which are or could be required in support of response operations but which are not aligned with a specific ESF. Those organizations are identified in the "Note" in Figure 3. Those organizations will participate in Federal planning and response operations and are responsible for designating officials to serve as representatives to the CDRG, and to the FCO's EST if so requested. Other Federal departments and agencies will be identified and requested to participate as requirements are realized.

D. CDRG

The Associate Director, SLPS, FEMA, is responsible for ensuring that policies and procedures essential to the effective functioning of the CDRG are established. The Associate Director, or designated representative, serves as the chairperson of the CDRG. Responsibilities of the chairperson include interacting with the Director, FEMA to ensure that the President and other senior-level Federal Government officials are kept informed of the disaster situation. The CDRG is responsible for:

(1) Coordinating the national-level response support efforts of the primary and support agencies and for responding to other requirements not directly associated with a specific ESF,

(2) Taking all actions necessary to ensure that requirements that need national support are satisfied,

(3) Overseeing, coordinating, and evaluating Federal response activities and resolving Federal response support problems and issues directly with the policymakers of the appropriate Federal departments and agencies.

(4) Establishing procedures for recording and maintaining information pertaining to national-level support actions for use in situation and after-action reports, and

(5) Monitoring national security concerns expressed by individual CDRG members.

E. EST

The EST provides on-scene advice and assistance to the FCO. Additionally, the EST assists the FCO in:

(1) Coordinating regional-level response support efforts and responding to other requirements not directly associated with a specific ESF,

(2) Taking all actions necessary to ensure that requirements to support State and local requests are satisfied,

(3) Establishing procedures for recording and maintaining information pertaining to regional-level support actions for use in situation and after-action reports, and

(4) Monitoring national security concerns expressed by individual EST members.

VI. Resource Requirements

Federal departments and agencies can be expected to respond with an influx of emergency workers. Federal facilities will be destroyed or damaged. Local Federal organizations will be in competition with State and other Federal organizations for available resources to support emergency operations. Significant demands for individuals possessing specialty skills such as medical, engineering, sanitation, etc., must be anticipated. Demands for communications, medical, transportation, food, engineering, and other materiel resources will occur. Therefore, Federal organizations must establish procedures to assess the logistical impact of a catastrophic earthquake on their field activities. They must determine in advance required resources to support their operations and Federal regional and State response efforts, and available options to obtain those resources. Those resources and options should be identified in regional response plans, to include as a minimum, personnel, support facilities, fixed or transportable communications, transportation assets, and technical assistance.

Additionally, Federal officials at all levels must intensively manage scarce resources (personnel and equipment) which may be urgently needed to support response efforts. Examples of such resources include medical doctors,

structural engineering inspectors, oil and gas transmission line inspectors, dog teams, specialized equipment (e.g., geophones), selected medical supplies, transportable water purification equipment, etc.

Departments and agencies assigned primary responsibility for an ESF must be prepared to provide or arrange for the personnel, facilities, and equipment necessary to support operations of the ESF on a 24-hour basis if necessary.

Federal automated information systems are a major source of information to determine quantities and locations of resources. Department and agency personnel assigned as ESF primary or support agency representatives must be familiar with these systems and know how to acquire the information. Response elements should have 24-hour access to essential automated information systems.

VII. References

A. Public Laws

1. "Earthquake Hazards Reduction Act of 1977" (Amended), 42 U.S.C. 7701 et seq.
2. "Disaster Relief Act of 1974," as amended 42 U.S.C. 5121 et seq.

B. Executive Orders

1. Executive Order 12127, "Federal Emergency Management Agency," March 31, 1977.
2. Executive Order 12148, "Federal Emergency Management Agency," July 20, 1979.
3. Executive Orders 12472 of April 3, 1984, "Assignment of National Security and Emergency Preparedness Telecommunications Functions."

C. Federal Emergency Management Agency

FEMA Publication M&R–2, "An Assessment of the Consequences and Preparations for a Catastrophic California Earthquake: Findings and Actions Taken," January 1981.

D. Other

1. State of California, California Department of Conservation, Division of Mines and Geology, "Earthquake Planning Scenario for a Magnitude 8.3 Earthquake on the San Andreas Fault in Southern California," Special Publication 60, 1982.
2. State of California, California Department of Conservation, Division of Mines and Geology, "Earthquake Planning Scenario for a Magnitude 8.3 Earthquake on the San Andreas Fault in the San Francisco Bay Area," Special Publication 61, 1982.
3. State of California, California Department of Conservation, Division of Mines and Geology, "Update of Vulnerability Assessment of California, Presently Used as a Basis for Site-Specific Plans," April 1983.

APPENDIX A—COORDINATION OF THE FEDERAL RESPONSE

I. Introduction

Appendix A outlines the organizational structure and coordination mechanisms to implement the National Plan and Federal response to support State and local governments. It gives more specific details on how the coordination process and provisions of the Basic Plan will be carried out during response operations.

A. Purpose

This appendix serves to identify and define the various components of the organizational structure, and to establish relationships between each of the components. It outlines the functional responsibilities of each element of the organization and describes where Federal agency representatives fit into the structure.

B. Scope

This appendix is applicable to all elements of the Federal Government participating in response operations. It establishes the system for delivery of assistance to State and local governments, and also the elements to support the Presidentially appointed Federal Coordinating Officer (FCO) and other Federal officials. It explains the process and procedures for providing a massive and immediate Federal response support effort. Coordinating elements at both national and regional levels are established as forums to discuss and resolve broad problems and issues, and to address evolving and unanticipated support requirements.

C. Assumptions

1. The magnitude of the suffering, damage, and destruction wrought by the catastrophic earthquake will be so great that involvement of virtually all Federal departments and agencies in response operations will be required quickly. Response elements will need to operate on a 24-hour basis for an extended period of time immediately following the catastrophic event.
2. Federal departments and agencies will have identified appropriate representatives who will have the authority and be prepared to carry out their agencies' responsibilities identified in the National Plan. Mechanisms will be in place to involve policymakers and decisionmakers within their organizations to facilitate rapid and decisive actions.
3. Federal departments and agencies will have sufficient numbers of skilled and trained personnel and other resources necessary to accomplish their responsibilities and support requirements, and will be prepared to deploy those resources immediately upon implementation of the National Plan.
4. An organizational structure with a regional-level component supported by a national-level component will be required to direct and coordinate Federal response operations after a catastrophic natural event.
5. Federal regional response plans will be developed to include further details and procedures to complement the National Plan. Procedures will be coordinated with State officials to provide for coordinated response efforts.
6. Facilities can be made available near the impacted area to serve as disaster staging area(s) for accommodation of the large influx of Federal response personnel and for receipt, temporary storage, control, processing, and disposition of the vast amounts of resources expected to be brought into the disaster area from throughout the United States.
7. Operations of the FCO and the State Coordinating Officer (SCO) will be collocated or in close proximity.

II. Organizational Structure

The organizational structure is composed of elements at the national and regional levels through which all Federal departments and agencies will operate upon National Plan implementation. The FCO is the official in charge of overall Federal response operations and, as such, directs and coordinates the delivery of response assistance through the regional-level components. The Catastrophic Disaster Response Group (CDRG) directs and coordinates national-level operations to resolve policy issues and provide rapid support for on-scene response operations.

This section describes the methods of interaction and the responsibilities and operational considerations for each of the major elements of the organizational structure. The Disaster Field Office (DFO) and facilities at the national level which support the organizational structure are discussed.

A. National Level

The national-level organizational structure for response coordination is depicted in Figure A–1.

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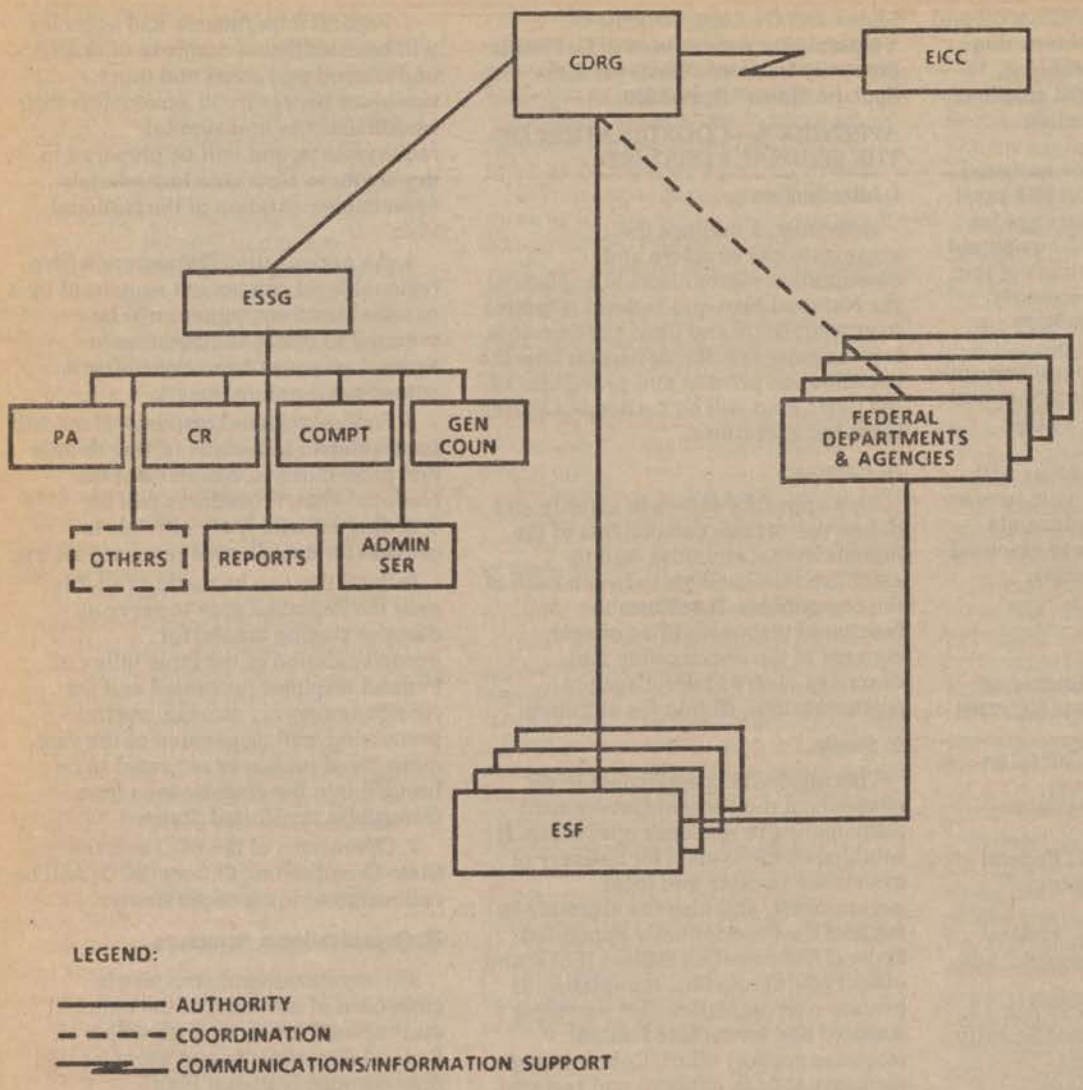


Figure A-1. National-Level Response Coordination Structure

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1. CDRG

a. As outlined in the Basic Plan, the CDRG serves as a national level forum for participation by representatives of all Federal departments and agencies involved in response support. The CDRG is chaired by the FEMA Associate Director for State and Local Programs and Support (AD/SLPS), or designated representative. The chairperson is responsible for ensuring the needs of the response operation on scene are satisfied. At the request of the FCO, the CDRG will address complex response issues and problems that can be resolved only through national level decisions or policy changes.

b. Members of the CDRG will establish and maintain contact with their agency counterparts involved in response efforts, particularly with respect to accomplishment of specific Emergency Support Functions (ESF). They are conduits to keep their agency officials advised of the status of response operations.

c. The CDRG will operate at facilities identified and supported by FEMA. The most likely facility is the Emergency Information and Coordination Center (EICC), located in FEMA headquarters, Washington, DC. FEMA will provide communications and other supporting resources for the receipt and transmission of emergency management information. This facility will be accessible to members of the CDRG and other Federal officials as required by the disaster situation and national response support efforts.

d. Upon determination that a potentially catastrophic earthquake has occurred, FEMA will notify all agencies. CDRG members will keep FEMA advised of their respective locations and telephone numbers, and should consider reporting to the FEMA EICC to assist in gathering information and beginning response operations.

e. Upon implementation of the National Plan, CDRG members will assemble at the FEMA EICC for an initial meeting with the CDRG chairperson. CDRG members and their alternates must be available at the call of the chairperson for 24-hour operations, if necessary.

2. Emergency Staff Support Group (ESSG)

a. The ESSG is primarily an internal FEMA group formed to provide staff support to the Federal response structure at the national level and to serve as liaison with their counterparts on the FCO's staff. Figure A–1 depicts the organizational elements of the ESSG. The ESSG also serves as the interagency link, if required, to comparable elements (e.g., public affairs, legal counsel, congressional relations) within the other Federal departments and agencies. Administrative and logistical support to the CDRG will be provided and coordinated by the ESSG.

b. The Assistant Associate Director, Disaster Assistance Programs, FEMA, or designated representative, will be the chairperson of the ESSG. The ESSG chairperson also will function as the deputy chairperson of the CDRG.

c. The ESSG will operate in the FEMA EICC, or other designated location in close proximity to the CDRG. The ESSG will assemble and operate at the call of its chairperson.

d. The ESSG will be staffed with all personnel and other resources necessary to provide required operational support to the National response effort. CDRG members will identify resources in their respective agencies in preparation for augmenting the ESSG as requested by the CDRG chairperson.

3. ESF Response Elements

a. The ESF response elements are key parts of the organizational structure at both the national and regional levels. These elements consist of the designated primary and support agencies with resources, capabilities, and expertise required to provide Federal response in emergency support functions. The concept of primary and support agencies is the basis for the process providing Federal resources from around the country in a coordinated and time-sensitive manner to response operations.

b. The organizational structures, notifications, and operating locations for each ESF are described in the functional annexes included in the National Plan.

c. At the national level, the ESF response elements ensure that support is provided to meet ESF needs identified at the regional level. They also provide their CDRG members continuing information about, and analyses of, the response efforts in their particular functional areas.

B. Regional Level

The regional-level organizational structure for delivery and coordination of response assistance and support is depicted in figure A–2.

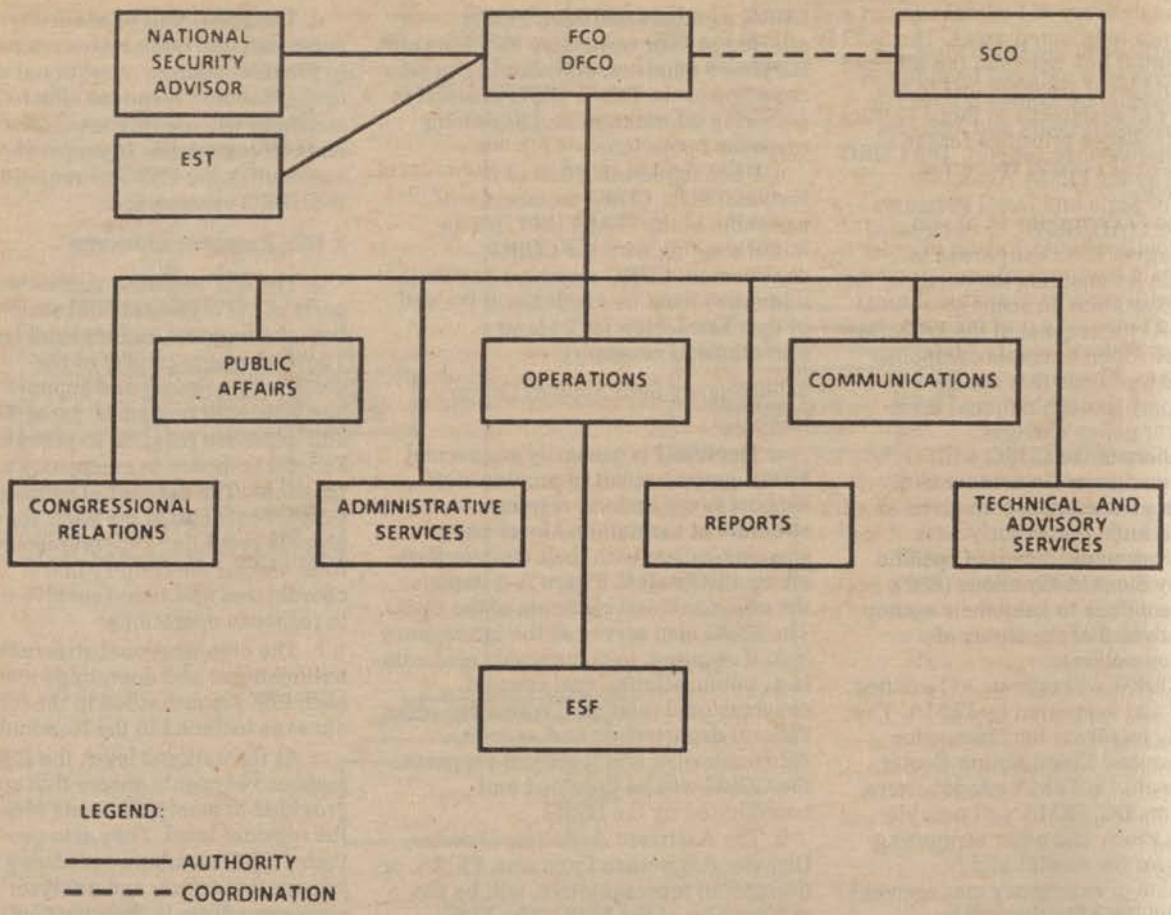


Figure A-2. Federal Coordinating Officer's Organizational Structure

1. FCO

The FCO is the Presidentially appointed official responsible for the overall coordination of Federal response support to the State and for the management of assistance authorized under Pub. L. 93–288. The FCO coordinates the efforts of all designated Federal agency representatives to ensure that Federal resources are provided in a timely manner to satisfy State requirements. Additionally, the FCO has the authority to direct or change the activities of Federal agencies to respond to the most urgent life saving and property protection needs. A deputy FCO will be appointed from FEMA to assist in carrying out the FCO's duties and functions, and to manage and supervise DFO operations.

2. EST

As authorized in Pub. L. 93–288 and discussed in the Basic Plan, an Emergency Support Team (EST) will be formed to advise and assist the FCO in coordinating the Federal response. The EST will be composed of:

a. Key members of the FCO's staff including representatives from public affairs, Congressional relations, operations, technical and advisory services, reports, administrative services, etc.;

b. A designated representative from each ESF primary agency; and

c. Designated representatives of ESF support agencies or others as requested by the FCO.

3. ESF

a. At the regional level, the ESF deliver Federal assistance and support in specific functional areas to the response operations of affected State and local governments.

b. Functional support provided by agencies in each ESF is coordinated by the designated primary agency based on the organizational structure and operating plan for that ESF in the functional annexes to the National Plan and site-specific regional plans.

c. At the regional level, ESF report to the FCO through their designated primary agencies. In addition, regional level ESF maintain continuing liaison with their ESF counterparts at the national level and with appropriate State agencies.

d. The primary agency for each ESF has tasking authority over support agencies in that ESF to the extent required to meet response requirements under Pub. L. 93–288.

4. State Coordinating Officer

a. Although he/she is not a Federal official, the SCO is integral to the

effective delivery of Federal support and assistance to affected areas. The SCO is an essential link between the affected State and local governments in the delivery of assistance to those entities and establishes priorities for the allocation of Federal resources provided.

b. The SCO and the FCO will maintain continuous liaison in order to coordinate requirements and unmet needs with support available through ESF and to identify problems and issues requiring Federal and/or State resolution.

5. DFO

a. A disaster field office (DFO) will be established in or close to the designated disaster area as a base of operations for the FCO and other components of the Federal response. The DFO will be collocated or closely linked to the State disaster offices to enhance the ability of Federal and State counterparts to coordinate disaster relief efforts.

b. FEMA Regional Directors will be responsible for planning and coordinating with their Federal and State counterparts for setting up the DFO—to be operational within 6–12 hours following implementation of the National Plan—and providing other necessary support to the FCO.

III. Response Operations

Each participating Federal organization and element has specific functions to perform implementing the concept of operations outlined in the Basic Plan. This section details those functions and describes how the overall Federal response effort will be coordinated. In addition, operational descriptions of the specialized activities of public affairs and Congressional relations are included. These activities are included because of their potential impact on public perceptions of the Federal response, and because the success of these activities depends on coordination networks and operational structures not discussed elsewhere in this plan.

A. Functions

1. National Level

a. Following the determination that the earthquake is catastrophic and the Presidential declaration, the FEMA Director will direct implementation of the National Plan. Additionally, the Director, FEMA will provide information on the progress of Federal response efforts to the White House and other senior-level Federal Government officials, as required.

b. The FEMA AD/SLPS will ensure that the FCO and supporting personnel receive an orientation briefing prior to departure to the disaster area. The AD/SLPS also will ensure that national-level staffing requirements are sustained for the duration of required national-level support. As chairperson of the CDRG, the AD/SLPS (or his/her designee), will ensure that the CDRG accomplishes the responsibilities outlined in the Basic Plan and the functions outlined below.

c. The CDRG will:

(1) Resolve national-level response support problems and issues directly with the policymakers of the appropriate Federal departments and agencies;

(2) Establish procedures or mechanisms to provide a means for determining, on an ongoing basis, the status of national-level response actions;

(3) Arbitrate conflicts regarding response actions and the application of resources;

(4) Take action as requested by the FCO on response support requests which are not functionally related to a specific ESF;

(5) Provide policy guidance, or clarification of existing policy as appropriate, regarding the use of Federal resources;

(6) Apprise the heads of Federal departments and agencies of national security concerns; and

(7) Take all other actions necessary to ensure timely and effective support to the FCO.

d. ESF primary and support agencies will perform functions specified in the appropriate ESF annexes.

e. As members of the ESSG:

(1) The Director of FEMA's Office of Public Affairs will:

(a) Advise and provide public affairs (PA) support to the CDRG;

(b) Serve as the PA liaison between the CDRG and the FCO's Lead Public Information Officer (Lead PIO) for coordination of information prior to release through the Joint Information Center (JIC);

(c) Supplement regional efforts, as requested, to ensure experienced PA personnel and support staff are dispatched to support the FCO (and the FEMA Regional Director (RD) prior to the FCO's arrival);

(d) Ensure that equipment and supplies in FEMA's "fly-away" kit are available to support the on scene PA effort and are dispatched, as requested, to the FCO (or the FEMA RD prior to the FCO's arrival).

(2) The Director of FEMA's Office of Congressional Relations will:

(a) Establish contact with Congressional offices representing the disaster area;

(b) Develop and provide to the FCO's Congressional Liaison Officer a list of Washington, DC and district office contacts for each of the appropriate Congressional offices for liaison on disaster-related matters;

(c) Assist the FCO's Congressional Liaison Officer by responding to national-level Congressional inquiries;

(d) Arrange for Washington, DC briefings as appropriate for members of Congress and their staffs on the scope of Federal assistance to affected areas;

(e) Ensure that experienced Congressional relations (CR) personnel and support staff are dispatched to support the FCO; and

(f) Serve as the CR liaison between the CDRG and the FCO's Congressional Liaison Officer.

(3) The FEMA Comptroller will:

(a) Oversee and direct disposition and accounting of funds expended in accordance with Pub. L. 93–288;

(b) Provide a funding code for reimbursement of Pub. L. 93–288 related expenditures to the Federal departments and agencies with National Plan responsibilities upon Plan implementation or shortly thereafter;

(c) Take action, if necessary, to request supplemental appropriations to support disaster relief operations;

(d) Establish a Letter of Credit mechanism to ensure rapid availability and transfer of funds to state and Federal organizations when required; and

(e) Establish comptrollership liaison with the FCO's support components in the DFO.

(f) Establish liaison, as necessary, with comptrollers of other involved Federal departments and agencies.

(4) The FEMA General Counsel will:

(a) Provide legal advice to the chairman of the CDRG on the provisions of Pub. L. 93–288;

(b) Respond to all requests for legal interpretation of the provisions of Pub. L. 93–288;

(c) Monitor closely Federal response support operations in the designated area to identify potential Pub. L. 93–288-related problems and issues that could develop into lawsuits against the Federal Government;

(d) Establish General Counsel liaison between the CDRG and the FCO; and

(e) Establish liaison, as necessary, with General Counsels of other involved agencies.

(5) Other FEMA offices as assigned will:

(a) Provide administrative and logistical support to the CDRG;

(b) Provide the use of the agency's facilities, such as the EICC as operational headquarters for the CDRG and other national-level elements of the Federal response structure;

(c) Provide communications and other support resources for receipt, transmission, and management of emergency management information through the EICC; and

(d) Maintain a current list of the names, titles and telephone numbers of CDRG members for use in issuing appropriate notifications.

2. Regional Level

a. The FCO will:

(1) Oversee, manage and coordinate field response activities of all Federal response elements;

(2) Coordinate with the SCO to identify unmet needs and evolving support requirements and deliver appropriate Federal assistance;

(3) Forward to the CDRG all support requirements which are beyond regional capabilities;

(4) Direct the overall Federal PA and CR efforts; and

(5) Serve as the chief spokesperson for the Federal response effort to the media and the public.

b. The Deputy FCO will:

(1) Assist the FCO in carrying out the FCO's responsibilities as the President's representative for delivering Federal response support and assistance; and

(2) Supervise day-to-day staff activities in the DFO.

c. The EST will:

(1) Obtain information regarding Federal, State, and local government's response activities; identify needs which should be addressed at the regional level; and provide that information to the appropriate primary and support agency representatives on scene;

(2) In coordination with the FCO, determine those Federal response support requirements, problems, and issues that cannot be resolved at regional level and that should be forwarded to the CDRG for resolution; and

(3) Take all other actions necessary to assist and advise the FCO in carrying out his/her responsibilities effectively.

d. Public Affairs will:

(1) Establish and operate one or more Joint Information Centers (JICs) to ensure the coordinated, timely release of accurate information to the news media and the public (See section IIIC);

(2) Coordinate VIP briefings and tours;

(3) Establish and operate a public information program to provide assistance/information to the general public; and

(4) Establish and operate a toll-free information hotline.

e. Congressional Relations will:

(1) Establish and maintain continuing liaison with affected/ interested Congressional offices with assistance of the national-level Congressional relations element;

(2) Establish and maintain liaison with appropriate public interest groups; and

(3) Coordinate with Lead PIO and serve as conduit for providing releases and other public information materials to interested Congressional delegations and public interest groups.

f. Operations will:

(1) Provide day-to-day management, coordination, technical assistance and oversight to the ESF primary and support agencies;

(2) Arbitrate conficts regarding response actions and the application of resources;

(3) Determine and take appropriate actions on response support requests which are not functionally related to a specific ESF and inform the CDRG of requests that cannot be satisfied at the regional level; and

(4) Maintain current information on the status of regional-level response activities.

g. Administrative Services will:

(1) Provide logistical and administrative support to the FCO and other Federal departments and agencies operating from the DFO; and

(2) Coordinate as appropriate with the FCO and the SCO on requirements for staging area(s) outside the designated disaster area.

h. Reports will:

(1) Document response operations, activities, problem areas, and resolutions;

(2) Compile regular situation reports and special regional-level reports as specified by the FCO;

(3) Maintain logs, records, and other written information for use in preparing reports and for historical purposes; and

(4) Maintain coordination with the Damage Information ESF to facilitate processing up-to-date damage information for use by the FCO and others for decisionmaking.

i. Communications will:

(1) Install, maintain, and operate DFO communications systems and equipment; and

(2) Coordinate with the ESSG and State communications officers to establish and maintain effective communications between the national level response structure and the DFO, and between the SCO and the FCO if they are not collocated in the DFO.

j. Technical and Advisory Services will:

(1) Coordinate provision of technical assistance and expertise to inspect and evaluate hazardous geologic and hydrologic processes, identify hazards posed by collapsed or damaged dams and levees, and deal with other secondary and unanticipated hazards;

(2) Recommend to the FCO appropriate hazard reduction measures;

(3) Serve as a point-of-contact for scientific and technical inquiries and investigations; and

(4) Respond to State and local requests for scientific assistance.

k. ESF primary agency representatives will serve as the points-of-contact for the FCO on matters related to response activities in their particular functional areas. ESF primary and support agencies will perform the functions prescribed in the appropriate annexes to the National Plan.

l. The National Security Advisor will:

(1) Identify and monitor potential and actual national security implications caused by the catastrophic event;

(2) Provide technical advice, assistance, and recommendations to the FCO relative to national security implications;

(3) Coordinate activities related to national security, as required; and

(4) Maintain appropriate liaison with the CDRG relative to national security issues.

B. Response Coordination

1. General

During the critical minutes and hours immediately following a catastrophic earthquake, most Federal elements in the designated area will assist State and local officials to save lives and prevent unnecessary suffering. Federal organizations at national and regional level will focus on those lifesaving and life-protecting efforts in initiating implementation of this National Plan.

2. Coordination

The CDRG will coordinate the overall national-level Federal response support efforts. The designated representatives of ESF primary and support agencies will coordinate their specific ESF support requirements with their Federal regional counterparts in the designated area. Prior to arrival of the appointed FCO, Federal regional organizations provide response support to the affected State under the coordination and management authorities of the FEMA RD. After the FCO is appointed and

arrives on scene, the Federal regional organizations provide response support under the coordination and management authority of the FCO. If a response support requirement can best be accomplished under an agency's independent authority or if the support is beyond its authority or capability at the regional level, the agency notifies the FCO's Operations Officer. The Operations Officer informs the FCO and, if necessary, forwards the support requirement to the CDRG for appropriate action. Upon receipt of the support requirement at the national level, the CDRG will take action to identify organizations or resources that can satisfy the requirement. The CDRG or the FCO then will task the appropriate organization(s) to provide the required support.

The CDRG and the FCO will ensure that they can quickly determine the status of each specific action at any time at their respective levels. At the national level, primary and support agency representatives will report completion of response support actions to the CDRG. Regional-level counterparts of the primary and support agency representatives will report status and completion of response support actions to the Operations component of the DFO.

Federal regional organizations will establish communications with their national headquarters and keep them informed of response support provided under their independent authorities, under the provisions of this National Plan, and by direction of the FCO.

All Federal elements will ensure response actions are coordinated fully to preclude duplication of efforts and inefficient use of resources.

C. Specialized Activities

1. Public Affairs

One or more Joint Information Centers (JICs) involving the affected State and local governments and all responding Federal departments and agencies will be established to ensure the coordinated, timely, accurate release of information to the news media and the public about disaster-related alerts, warnings, protective actions, damage information, and Federal response activities. All Federal departments and agencies involved in the response effort will make available experienced PA personnel to support the Federal PA effort and will provide immediate access, through the CDRG and EST, to individuals authorized to speak for their respective organizations before the media and the public. Information intended for the news media and the public will be coordinated among Federal departments and agencies and with state and local officials to the extent practicable prior to release.

A primary JIC will be set up in or near the DFO and will serve as the principal point for release of information to the news media and the public. A satellite JIC will be set up at FEMA Headquarters in Washington, DC. Other satellite JICs may be established at one or more FEMA Regional Headquarters and/or other locations. All JICs will operate under the direction of the Lead PIO named by the FCO and will be prepared to operate 24 hours a day as long as the FCO, in consultation with the SCO and the CDRG, determines necessary.

The primary JIC will be staffed, to the extent possible, by PA representatives of all responding Federal departments and agencies and affected State and local governments. Staffing of the satellite JICs and any others which might be established will be determined by the Lead PIO under the direction of the FCO.

2. Congressional Relations

A Congressional Liaison program will be established to provide up-to-date Federal response-related information to the Washington, DC, and district offices of Congressional representatives and to respond to questions, concerns and problems raised by their constituents and by concerned public interest groups. The program will be managed by the Congressional Liaison Officer named by the FCO, and all Federal departments and agencies involved in the response effort will make available experienced CR personnel to support the effort. Information to be released to Congressional offices, constituents and public interest groups will be coordinated among Participating Federal departments and agencies and with State and local officials, as appropriate, prior to release.

CR personnel will be headquartered in or near the DFO and will maintain continuing liaison with the PA personnel in the primary JIC. A CR support contingent will be stationed at the FEMA EICC and will respond to inquiries received at the national level at the direction of the Congressional Liaison officer.

The CR staff at the regional and national levels will conduct briefings for Congressional members and their staffs and, as appropriate, representatives of concerned public interest groups. Timing, format, and content of these briefings will be determined by the Congressional Liaison officer in consultation with the FCO, the CDRG, and the SCO as appropriate.

APPENDIX B—ADMINISTRATIVE POLICIES AND PROCEDURES

I. Introduction

A number of administrative tasks are required for successful operation of the Federal response to a catastrophic natural event. Detailed planning is required to facilitate completion of these tasks in the stressful environment created by the event.

A. Purpose

This appendix prescribes the interagency administrative policies and procedures to be followed by participating Federal organizations in planning for and executing provisions of the National Plan.

B. Scope

This appendix focuses on administrative policies and procedures unique to planning and operations related to the National Plan for Federal Response to a Catastrophic Earthquake. It includes policies and procedures which are not covered in the Code of Federal Regulations and other applicable references.

II. Administrative Policies

A. Pre-Implementation of the National Plan

1. As specified in the Basic Plan, supplemental agency and regional plans will be developed to prescribe detailed administrative procedures for meeting requirements related to carrying out provisions of the National Plan.

2. Regional planning will ensure that administrative requirements of the Federal response will be met.

B. Post-Implementation of the National Plan

1. All financial operations related to the Federal response will be conducted in accordance with established financial policies and regulations.

2. Reimbursement of Pub. L. 93–288-related expenditures by primary and support agencies will be in accordance with 44 CFR except as shown in section III. B. 3.

3. States will determine priorities for application of resources provided by responding Federal departments and agencies.

III. Administrative Procedures

A. Pre-Implementation

1. National Plan Review and Revision

The National Plan will be reviewed during the fourth quarter of each fiscal year by the Subcommittee on Federal Earthquake Response Planning. Subcommittee member agencies will submit recommended changes, in writing, to Chairperson, Subcommittee on Federal Earthquake Response Planning, no later than July 31 of each year.

Approved changes will be incorporated into the National Plan and correction pages issued by the Chairperson by September 30.

Arrangements for consideration of significant changes outside the established review period may be made by contacting the Subcommittee Chairperson.

Regional offices of Federal departments and agencies will conduct formal reviews of their response plans and procedures annually within 3 months of receipt of any change(s) to the National Plan.

2. Notification List

Federal departments and agencies to be represented on the Catastrophic Disaster Response Group (CDRG) will provide to FEMA the name, address, position, title, and telephone numbers (office and home) of their CDRG members. Federal agencies designated as primary agencies will provide FEMA, at both national and regional level, with the requested information on their ESF representatives. At the regional level, Federal agencies designated as primary agencies will provide FEMA similar information on their EST representative. This information is to be verified semianually, and updated as changes occur.

B. Post-Implementation

The following paragraphs summarize considerations which should be addressed as supplemental agency and regional plans are developed to carry out Federal response.

1. FCO Continuity

In the event the FCO is incapacitated, his/her authorities and responsibilities are to be assumed immediately by the Deputy FCO. The Deputy FCO will function as the FCO until the FCO is able to reassume his/ her position or a new FCO is designated and arrives on scene.

2. Reports

a. *National Level.* Figure B–1 depicts the general flow of reports at both the national and regional levels. The ESSG will prepare all reports required by the CDRG. Disaster situation reports, damage assessments, reports on the status of Federal response operations, and other information will be issued regularly by the CDRG, in coordination with the FCO. All Federal departments and agencies involved in the response at the national level will provide input for these reports, according to deadlines established and promulgated by the ESSG Chairperson or his/her designee.

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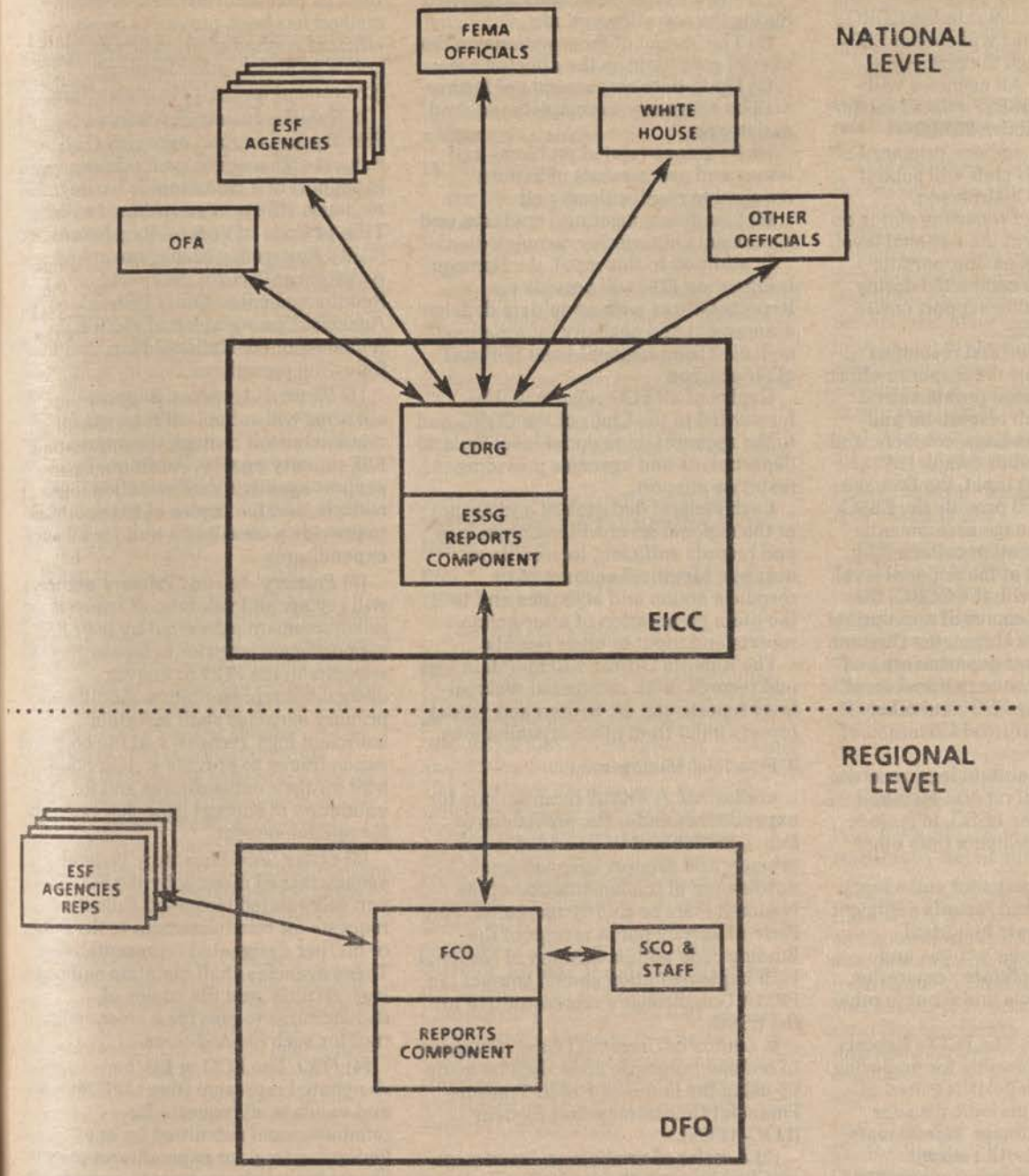


Figure B-1. Reports Flow

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The primary agency of each ESF will submit ESF-related input to the CDRG. ESF support agencies will submit ESF-related input through the primary agency of the ESF. All agencies will submit input on non-ESF related matters through their respective CDRG members. CDRG members, primary ESF agencies, and ESSG staff will submit input to the ESSG Chairperson.

For the purpose of reporting status on Federal operations at the national level, input is to describe, as appropriate:

(1) Major actions completed during the reporting period to support onsite response operations;

(2) Pending actions and resources necessary to support the response effort;

(3) Response-related problems and issues which require resolution; and

(4) Significant meetings, contacts, and agreements initiated or completed.

In addition to this input, the Damage information ESF will provide the ESSG with up-to-date damage assessments and casualty information collected by its ESF counterpart at the regional level.

In coordination with the CDRG, the ESSG will forward copies of appropriate reports to the White House, the Director of FEMA, the Federal departments and agencies involved in the national-level response efforts, the FCO, and other appropriate national-level Government officials.

The ESSG will maintain logs, records, and file copies of all reports prepared and submitted by the ESSG, to include copies of all written inputs from other organizations.

Each Federal department and agency will maintain logs and records sufficient to provide an accurate historical account of its response actions and activities, and to facilitate preparation of after-action reports and input to other reports.

b. *Regional Level.* The FCO's Reports Officer will be responsible for preparing and submitting all reports required of the FCO, including periodic disaster situation reports, damage assessments, and the FCO Digest. All Federal departments and agencies involved in the response at the regional level will provide input for these reports, according to deadlines established by the Reports Officer.

ESF support agencies will submit ESF related input through the primary agency designated for the ESF. Primary agencies will submit input for their ESF to the FCO's Operations Officer who will forward all ESF input to the Reports Officer. The FCO's staff will submit input to the Reports Officer.

Input on the status of Federal response operation from each EST member will describe, as appropriate:

(1) Major response actions completed during the reporting period;

(2) The impact of those actions on the overall conditions in the affected area;

(3) Up-to-date assessments of further actions necessary to complete required assistance;

(4) Response-related problems and issues and assessments of actions required to resolve them; and

(5) Significant meetings, contacts, and agreements initiated or completed.

In addition to this input, the Damage Information ESF will provide the Reports Officer with up-to-date damage assessment and casualty information collected from regional-level ESF and other sources.

Copies of all FCO reports will be forwarded to the Chair of the CDRG and to the appropriate regional-level Federal departments and agencies providing response support.

Each Federal department and agency at the regional level will maintain logs and records sufficient to provide an accurate historical account of its response action and activities and to facilitate preparation of after-action reports and input to other reports.

The Reports Officer will maintain logs and records of all completed regional-level reports and all written and verbal reports input from other organizations.

3. Financial Management

a. *General.* A FEMA funding code for expenditures under the provisions of Pub. L 93–288 will be provided to all primary and support agencies upon notification of implementation of the National Plan, or shortly thereafter. Any Federal agency not in receipt of the funding code within 48 hours of National Plan implementation should contact the FEMA Comptroller's representative to the ESSG.

b. *Letters of Credit.* (1) Cash advances to recipient organizations shall be made by using the Letter-of-Credit Treasury Financial Communications System (LOC–TFCS).

(2) A letter-of-credit is an instrument certified by an authorized official of a Federal sponsoring agency (FEMA) that authorizes a recipient to draw funds when needed from the Department of Treasury through the recipient's financial institution, in accordance with the provisions of Treasury Circular No. 1075, as revised. The LOC–TFCS is an electronic fund transfer application of the letter-of-credit payment method that provides the availability of Federal funds to a recipient organization on the first workday following the receipt of the request for funds message by the U.S. Treasury in accordance with provisions of Treasury Circular Number 1083, as revised. The letter-of-credit method has been proven to be an efficient method of financing multiple grants to States, other levels of government and private contractors.

c. *Reimbursement Procedures.* Primary and support agencies shall request and account for funds expended in support of a catastrophic earthquake response efforts in accordance with the Title 44 Code of Federal Regulations (CFR), Emergency Management and Assistance (Part 205, Subpart I, Reimbursement of Other Federal Agencies); paragraph 8 of section II (Policies) of the National Plan; and the following procedures.

(1) *Support Agencies.* Support agencies will submit all requests for reimbursement through the appropriate ESF primary agency. Additionally, support agencies shall maintain logs, records, and file copies of expenditures to provide a clear audit trail for all such expenditures.

(2) *Primary Agency.* Primary agencies will review and validate all requests for reimbursement submitted by their ESF support agencies prior to forwarding the requests to the FCO or his/her designated representative. Additionally, primary agencies shall maintain sufficient logs, records, and file copies of expenditures to provide a clear audit trail for their expenditures and for validation of support agencies' requests for reimbursement.

(3) *Other Situations.* Any Federal agency tasked directly by the FCO in a non ESF-related task shall submit all requests for reimbursement to the FCO or his/her designated representative. These agencies shall maintain sufficient logs, records, and file copies of expenditures to provide a clear audit trail for such expenditures.

(4) *FCO.* The FCO or his/her designated representative shall review and validate all requests for reimbursement submitted by any Federal agency for expenditures prior to approving reimbursement in accordance with 44 CFR.

4. Operations

FEMA will ensure that there is a working automated Critical Actions Tracking System that is accessible to both national and regional level response operations. This will allow for sharing information with responding agencies in a timely manner and eliminate duplication of effort. Also, FEMA will ensure that information (e.g., accessibility, etc.) on the system is disseminated to the response planning community on a timely basis.

5. Administrative Services

a. *National Level.* The ESSG will arrange for sufficient staff personnel, work space, office equipment, and communications capability (i.e., electronic mail, telephones, telefax, teletype equipment, and radios as appropriate) to support the CDRG and ESSG on a 24-hour basis, if necessary, for an extended period of time. The ESSG also will arrange for data base access for message handling, graphics, and automatic data processing (ADP) support for CDRG operations.

The ESSG, if asked by the CDRG Chair, will arrange for movement of national-level and out-of-region personnel and equipment to the DFO and for establishment, in coordination with the FCO's Administrative Officer, of support sites with necessary communications and other services (i.e., housing, transportation, feeding, health services, etc.) for emergency personnel serving at the region.

When requested by the CDRG Chairman, the ESSG will assist in coordinating arrangements for sufficient facilities, staff personnel, and equipment to operate and maintain staging area(s) established at or near the disaster area.

b. *Regional Level.* The FCO's Administrative Officer should coordinate with appropriate State Officials for issue of emergency access credentials and certifications of out-of-State licenses for Federal response personnel. Access arrangements will include issue of controlled identification badges to Federal personnel requiring emergency access to the designated area.

The Administrative Officer will establish the necessary fiscal controls and cost accounting mechanisms for the DFO activities. In addition, the Administrative Officer will maintain all logs, records, and files necessary to document (for audit purposes) local financial expenditures and requests for reimbursement.

The FCO's Administrative Officer will arrange for sufficient personnel, work space, and office equipment to operate the DFO on a 24-hour basis throughout the Federal response effort. The Administrative Officer will establish and operate a message handling center and arrange for graphics, printing, and appropriate ADP support for DFO operations. Work schedules for all regional-level support personnel will be established by the Administrative Officer. He will establish, in coordination with the ESSG, sufficient support sites to accommodate on-scene personnel throughout the immediate response phase.

At the direction of the FCO, the Administrative Officer will coordinate arrangements for establishing and operating one or more staging areas for receipt, temporary storage, control, and disposition of Federal resources necessary to support the response effort.

IV. References

44 CFR, Part 205, Federal Disaster Assistance (Pub. L. 93–288), Subpart I—Reimbursement of Other Federal Agencies.

Disaster Operations Manual, Volumes I & II, Federal Emergency Management Agency.

Letter-of-Credit Policies and Procedures for Recipient Organizations, CPG 2–14, February 1984.

Letter-of-Credit Policies and Procedures, FEMA Manual 2700.1, May 1984.

APPENDIX C—COMPENDIUM OF EMERGENCY AUTHORITIES AND DIRECTIVES

Pub. L. 93–288, "Disaster Relief Act of 1974," May 22, 1974

The Disaster Relief Act of 1974, as amended, provides an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from disasters. The President, in response to a State Governor's request, may declare an "emergency" or "major disaster," thereby permitting mobilization of Federal assistance under the Act. The President, in Executive Order 12148, delegated all functions, except those in sections 301, 401, and 409, to the Director, FEMA. The Act provides for the appointment of a Federal Coordinating Officer who will operate in the designated area with a State Coordinating Officer for the purpose of coordinating state and local disaster assistance efforts with those of the Federal Government.

Executive Order 12148, "Federal Emergency Management," July 20, 1979

E.O. 12148 transferred functions and responsibilities associated with Federal emergency management to the Director, FEMA. The Director was tasked to establish Federal policies for and to coordinate all civil defense and civil emergency planning, management, mitigation, and assistance functions of Executive Agencies.

Pub. L. 78–410, "Public Health Service Act," Section 216, 42 U.S.C. 217

This provision authorizes the President, in time of war or upon Presidential declaration of an emergency, to utilize the Public Health Service to the extent and in the manner that in his judgement will promote the public interest.

Pub. L. 78–410, "Public Health Service Act," Section 311 U.S.C. 243

This statutory provision authorizes the Secretary of Health and Human Services to develop (and may take such action as may be necessary to implement) a plan under which personnel, equipment, medical services, and other resources of the Public Health Service and other agencies under the jurisdiction of the Secretary may be effectively used to control epidemics of any disease or condition, as specified, and to meet other health emergencies or problems involving or resulting from disasters or any such disease.

Pub. L. 78–410, "Public Health Service Act," Section 319

This provision authorizes the Secretary of Health and Human Services to take appropriate action to respond to a "public health emergency" resulting from disease, disorder, or other cause. The Secretary must consult with the Director of NIH, Administrator of ADAMHA, Commissioner of FDA, or the Director of CDC before determining that an emergency exists, and he must act through that official in responding to the emergency.

Pub. L. 95–313, "Cooperative Forestry Assistance Act of 1978"

This Act authorizes the Secretary of Agriculture to assist in the prevention and control of rural fires through coordination among Federal, State, and local agencies; and to provide prompt and adequate assistance whenever a rural fire emergency overwhelms, or threatens to overwhelm, the firefighting capability of the affected State or rural area.

Pub. L. 96–510, "Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Section 104(i), 42 U.S.C. 9604(i)

This provision authorizes the Administrator of the Agency for Toxic Substance and Disease Registry to provide medical care and testing to individuals in "public health emergencies" caused by their exposure to toxic substances.

United States Congress Act of January 5, 1905, as Amended, 36 U.S.C.

The American National Red Cross Congressional Charter assigning the authority and responsibility for the American Red Cross to undertake

activities for the relief of individuals suffering from a disaster.

Older Americans Act of 1965, as Amended, Section 310, 42 U.S.C. 3030

This provision authorizes the Commissioner of the Administration on Aging to reimburse states for social services provided to older Americans following a Presidentially-declared disaster.

49 U.S.C. 10724 and 11121 to 11128

The Interstate Commerce Commission (ICC) may authorize a common carrier to give reduced rates for service and transportation in an emergency. The emergency situation must be of a nature to have a substantial adverse effect on rail service in the United States or a substantial region of the United States. In granting the authorization, the ICC must define the area of the United States in which the reduced rates will apply, specify the period during which the rates are to be in effect, and define the class of persons entitled to reduced rates.

Food Stamp Act of 1977, Section 5(h)(1), Implemented by Proposed Final Rulemaking at 46 CFR 8922 and 46 CFR 8923

Authorizes Department of Agriculture to make food stamps available to low income households in any disaster situation in which normal channels of retail food distribution have been restored and the existing Food Stamp Program cannot handle applications from affected households. Food stamp assistance must be requested by a state.

Disaster Relief Acts of 1969 and 1974 (Pub. L. 93–288), Implemented by Food Distribution Regulations, Parts 250.1(b) and 250.8(e)

Any person/household temporarily displaced by a disaster may obtain USDA foods in congregate feeding provided by volunteer organizations such as the American Red Cross and the Salvation Army; no formal approval is required from USDA. Additionally, low income families can receive household distributions of food in situations where a Food Stamp Program is not available (e.g., commercial channels of trade are disrupted); formal USDA approval is required.

7 CFR 250.1(B)(10)(11)

Refers to sections 409 and 410 b of Pub. L. 93–288, the Disaster Relief Act of 1974, which reads, "The Secretary of Agriculture shall utilize funds appropriated under section 32 of the Act of August 1935 (7 U.S.C. 612 c) to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area."

28 CFR Part 65, Emergency Federal Law Enforcement Assistance; Final Rule

These Department of Justice regulations implement the Emergency Federal Law Enforcement Assistance functions vested in the Attorney General by the Justice Assistance Act of 1984 (Pub. L. 98–473). Those functions were established to assist state and/or local units of government in responding to a law enforcement emergency. The Act defines the term "law enforcement emergency" as an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which state and local resources are inadequate to protect the lives and property of citizens, or to enforce the criminal law. Emergencies which are not of an ongoing or chronic nature, such as the Mount Saint Helens volcanic eruption, are eligible for Federal law enforcement assistance. Such assistance is defined as funds, equipment, training, intelligence information, and personnel. Requests for assistance must be submitted in writing to the Attorney General by the chief executive officer of a state.

Department of Defense Directive 3025.1, "Use of Military Resources During Peacetime Civil Emergencies Within the United States, Its Territories, and Possessions," May 23, 1980 as Amended

Military support of civil defense is to be provided under the overall responsibility of the Joint Chiefs of Staff to assist the civilian population and minimize the effects of an enemy attack on the United States, its territories, or its possessions. Military support will include effective emergency repair to or emergency restoration of vital utilities and facilities destroyed or damaged by such an attack. Military support will be provided when directed by the Secretary of Defense. During an international crisis, the support to be provided may include relocation of the population (including military forces) of metropolitan or other high risk areas to reduce vulnerability to the effect of nuclear, biological, chemical, or conventional weapons. The degree of military involvement will depend upon the commitment of military resources to military operations. Coordination of efforts will be made within the Federal Emergency Management Agency. Military forces may be provided for local law enforcement where marshall law has been proclaimed.

"National Plan for Communications Support in Emergencies and Major Disasters," July 1983

This plan provides guidance in planning for and providing communications support for Federal agencies involved in emergencies, major disasters, and other exigencies, excluding war.

"Federal Radiological Emergency Response Plan (FRERP)"

This document is to be used by Federal agencies in peacetime radiological emergencies. It primarily concerns the offsite Federal response in support of State and local governments with jurisdiction for the emergency. The FRERP: (1) Provides the Federal government's concept of operations based on specific authorities for responding to radiological emergencies; (2) outlines Federal policies and planning assumptions that underlie this concept of operations and on which Federal agency response plans were based; and (3) specifies authorities and responsibilities of each Federal agency that may have a significant role in such emergencies.

40 CFR Part 300, "National Oil and Hazardous Substances Pollution Contingency Plan" (NCP)

The purpose of the NCP is to effectuate the powers and responsibilities for responding to nonradiological oil and hazardous substances discharges, releases, or substantial threats of releases as specified in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) and the authorities established by section 311 of the Clean Water Act, as amended. The plan is required by section 105 of CERCLA, 42 U.S.C. 9605, and by section 311(c)(2) of the Clean Water Act, as amended, 33 U.S.C. 1321(c)(2).

White House Memorandum, Subject: "National Security and Emergency Preparedness Telecommunications Management and Coordination Responsibilities," July 5, 1978

The above documents authorize the National Communications System to develop plans to coordinate and manage telecommunications support for the Federal Emergency Management Agency in extraordinary situations as well as Presidentially-declared emergencies and major disasters.

Communications Act of 1934, as Amended

This Act gives the Federal Communications Commission emergency authority to grant Special Temporary Authority on an expedited basis to operate radio frequency devices.

Federal Communications Commission Report and Order of August 4, 1981

This order modified parts 2, 90, and 99 of the Commission Rules and Regulations to establish a disaster radio response capability for local government and State radio services.

National Security Decision Directive 47 (NSDD–47)

On July 22, 1982, the President signed the "National Policy Statement on Emergency Mobilization Preparedness." The policy statement sets out emergency mobilization principles for domestic and national security emergencies, and calls upon Federal agencies to develop plans for action and provide the necessary resources to implement outlined programs (including health and social services).

"National Plan of Action for Emergency Preparedness Mobilization," July 11, 1984 (Classified)

The Emergency Mobilization Preparedness Board (EMPB) developed a plan of action, in response to the President's mandate of December 17, 1981. The National Disaster Medical System was established in accordance with the EMPB directive to develop national policy and programs to improve emergency preparedness.

Statement of Understanding Between the Federal Emergency Management Agency and the American National Red Cross, January 22, 1982

The statement of understanding between the Federal Emergency Management Agency and the American National Red Cross describes major responsibilities in disaster preparedness planning and operations in the event of a war-caused national emergency or a peacetime disaster, outlines areas of mutual support and cooperation, and provides a frame of reference for similar cooperative agreements between State and local governments and the operations headquarters and chapters of the American Red Cross.

American National Red Cross National Board of Governors Disaster Services Policy Statement, July 1, 1977

This document outlines the basic policies of the American Red Cross disaster services program, and the disaster relief services to be provided by units of the American Red Cross on a uniform and nationwide basis.

American Red Cross Disaster Services Regulations and Procedures, ARC 3003, January 1984

This document details the delegation of disaster services program responsibilities to officials and units of the American Red Cross. Also defined are Red Cross administrative regulations and procedures for disaster planning, preparedness, and response.

Disaster Services Guidelines and Procedures for Red Cross Disaster Welfare Inquiry Cadres, ARC 3036, February 1978

This document outlines guidelines and procedures for the establishment, maintenance, and termination of the Red Cross disaster welfare inquiry function for major disaster incidents.

Disaster Services Rugulations and Procedures for Military and Coast Guard Support for Red Cross Disaster Operations, ARC 3006, October 1981

This document outlines the basic agreements between the Red Cross and the United States military and Coast Guard organizations for support to the Red Cross during major disaster relief operations. Also detailed are the procedures for the Red Cross to use when requesting military and Coast Guard support. A more detailed presentation of the assistance provided by the military organizations is provided in a separate agreement of understanding between the Red Cross and the Department of Defense.

American National Red Cross Mass Care Preparedness and Operation Procedures and Regulations, ARC 3031

This document details the Red Cross mass care preparedness and operating regulations and procedures.

American National Red Cross Disaster Planning, Preparedness, and Response National Agreements of Understanding

The following agreements between the Red Cross and other organizations, agencies, and associations detail cooperative arrangements pertaining to disaster planning, preparedness, and response:

Statement of Understanding Between the Veterans of Foreign Wars of the United States, Ladies Auxiliary of the Veterans of Foreign Wars of the United States, and the American National Red Cross

Cooperative Disaster Relief Understanding Between the National Defense Transportation Association and the American National Red Cross

Disaster Relief Understanding Between the American Legion, the American Legion Auxiliary, and the American National Red Cross

Statement of Understanding Between the United States Postal Service and the American National Red Cross

Statement of Understanding Between the American Hospital Association and the American National Red Cross With Respect to Responsibility for Disaster Preparedness and Relief

Statement of Understanding Between the American National Red Cross and the Department of Defense

Statement of Understanding Between the American School Food Service Association and the American Red Cross With Respect to Emergency Feeding in a Disaster

Statement of Understanding Between the American Relay League, Inc., and the American National Red Cross

Agreement Between the Civil Air Patrol and the American National Red Cross

United States Coast Guard Cooperation With the American National Red Cross in Disaster Relief

Statement of Understanding Between REACT International, Inc., and the American National Red Cross

Statement of Understanding Between the Volunteers of America and the American National Red Cross With Respect to Responsibilities for Disaster Planning and Relief

Statement of Understanding Between the Salvation Army and the American National Red Cross

Statement of Understanding Between the Church of the Brethren Disaster Response and the American National Red Cross

Agreement Between the United Methodist Committee on Disasters and the National Division of the Board of Global Ministries of the United Methodist Church and the American National Red Cross

Statement of Understanding Between the American National Red Cross and the American Humane Association

Statement of Understanding Between the Council of the United States Society of St. Vincent De Paul and the American National Red Cross

Statement of Understanding Between the American Society of Civil Engineers and the American National Red Cross

Statement of Understanding Between the National Funeral Directors Association and the American National Red Cross With Respect To Disaster Services

Statement of Understanding Between the Seventh-Day Adventist Church Community Services and the American National Red Cross

Statement of Understanding Between the International Union, United Automobile, Aerospace, and Agriculture Implement Workers of America, Retired Older Workers Department and the American National Red Cross

Statement of Understanding Between the National Association for the Advancement of Colored People and the American National Red Cross

Statement of Understanding Between Church World Service (a division of the National Council of Churches of Christ in the United States) and the American National Red Cross
Statement of Understanding Between the American National Red Cross and the League of United Latin American Citizens
Statement of Understanding Between the National Restaurant Association and the American National Red Cross
Memorandum of Understanding Between the American Red Cross and the AFL–CIO Department of Community Services
Support Agreement Between the Alaskan Air Command and the American National Red Cross

TRANSPORTATION ANNEX—EMERGENCY SUPPORT FUNCTION #1

I. Introduction

A. Purpose

This annex provides for the coordination of Federal transportation support to State and local governmental entities, voluntary organizations, and Federal agencies requiring transportation services to perform disaster assistance missions following implementation of the National Plan.

B. Scope

The provision of Federal transportation support includes:

(1) Overall coordination of Federal and civil transportation assistance to State and local governmental entities, voluntary organizations, and Federal agencies requiring transportation services to perform disaster assistance missions;

(2) The provision of civil transportation services to nonmilitary Federal agencies in accordance with General Services Administration (GSA) Federal Procurement Regulations;

(3) The provision of federally arranged transportation support and Federal transportation services to Federal military and nonmilitary agencies, voluntary organizations, and State and local entities requiring such assistance; and

(4) The implementation, as required, of Department of Transportation (DOT) emergency-related responsibilities to include, but not limited to, the prioritization and/or allocation of civil transportation services, air and marine traffic control, emergency highway repair funding, hazardous material containment actions, damage assessment, and appropriate emergency coordination with State and local counterparts.

II. Policies

A. Federal transportation planning will be directed toward satisfying three primary demands. The first is to satisfy the requirements of Federal entities requiring transportation services to perform their assigned disaster missions. The second is to provide Federal transportation assistance to State and local governmental entities and voluntary organizations upon their request. The third is to facilitate both obtaining and utilizing civil transportation services for Federal, State, and local entities and voluntary organizations if such support is required.

B. Federal transportation planning will exclude consideration of utilizing transportation services organic to, or under contract to, Federal agencies at the time of the disaster relief functions.

C. Federal transportation planning will recognize that it is the primary responsibility of State and local governmental entities to react initially to a catastrophic earthquake and that Federal transportation assistance will be considered supplemental to State and local efforts. The Federal transportation assistance, if required, will be provided at the regional level by the DOT Regional Emergency Transportation Coordination (RETCO). At the Federal level, a DOT Crisis Coordinator or the Director of Emergency Transportation, Research and Special Programs Administration, will coordinate the Federal transportation response.

D. To the extent possible, Federal agencies requiring civil transportation services for their missions should arrange for such services using normal shipper-carrier relationships. The RETCO will be available to assist in arranging for such services if assistance is required.

E. Federal transportation planning will recognize State transportation network control policies and plans directed at controlling the movement of relief supplies and personnel effectively.

III. Situation

A. Disaster Condition

A catastrophic earthquake will severely damage the civil transportation infrastructure. Most localized transportation activities will be hampered by lack of surface access and disrupted communications. Disaster responses which require transportation services will be difficult to coordinate effectively for the first 24 hours. Gradual clearing of access routes will permit a sustained flow of emergency relief, although localized distribution patterns will be disrupted for a significant period.

B. Planning Assumptions

1. The area/regional civil transportation infrastructure will sustain damage. The damage, dependent upon the peculiarities of the civil transportation network, will influence the means and accessibility level for relief services and supplies.

2. The requirement for transportation services during the immediate lifesaving response phase will exceed the availability of State and/or locally controlled or readily obtained assets.

3. The initial Federal transportation assistance effort will rely upon the response capability of the individual Federal agencies until the disaster declaration is issued and the RETCO assumes his/her duties.

IV. Concept of Operations

A. General

Under catastrophic disaster conditions, DOT is responsible for coordinating Federal emergency transportation assistance to affected State and local governmental entities. This normally is accomplished at the region through the Department's RETCOs. The Department is also responsible for coordinating transportation assistance for Federal agencies with disaster mission assignments which lack sufficient transportation capabilities necessary to perform their emergency missions. Within the context of this plan, all references to the DOT include all the departmental operating administrations. These agencies are the Federal Highway Administration (FHWA), the Federal Aviation Administration (FAA), the Urban Mass Transportation Administration (UMTA), the Maritime Administration (MARAD), the Federal Railroad Administration (FRA), the United States Coast Guard (USCG), the Research and Special Programs Administration (RSPA), and the Saint Lawrence Seaway Development Corporation (SLSDC). The responsibility for operationally implementing the provisions of this annex is assigned to each of the Department's RETCOs within their respective geographical jurisdictions. Overall direction and control will be provided by the Secretary of Transportation's appointed departmental Crisis Coordinator or the Director of Emergency Transportation until such time as a Crisis Coordinator is appointed. The departmental Crisis Coordinator will exercise the Secretary of Transportation's delegated priorities and allocations authority derived from the Disaster Relief Act of 1974 and/or the Defense Production Act of 1950, as required to ensure an effective response to the catastrophic disaster situation. In the event that an affected RETCO is

unable to function after an earthquake, the RETCO responsibility will be assumed by the senior official within the RETCO's administration in accordance with established line of succession procedures.

B. Organization

1. National-Level Response Support Structure

a. National-level policy direction, control, and assistance will be provided by the DOT Crisis Coordinator. The DOT Crisis Coordinator is a senior-level departmental official appointed by the Secretary of Transportation following a major national security or domestic emergency having a significant adverse impact on the civil transportation system with authority both to coordinate fully the DOT response and to exercise, as appropriate, the Secretary's Defense Production Act of 1950 priorities and allocation authority.

b. The DOT Crisis Coordinator, or the coordinator's designee, will represent the Department in deliberations of the Catastrophic Disaster Response Group (CDRG).

c. At the request of the Crisis Coordinator, after an initial situation assessment, representatives from the appropriate Federal transportation supporting agencies will form a headquarters-level DOT advisory Emergency Transportation Emergency Support Function (HET–ESF), which will be directed by the DOT Crisis Coordinator.

d. The DOT Crisis Coordinator will exercise policy direction and control over the total Federal transportation community disaster response conducted by the Department, to include each concerned RETCO.

e. The HET–ESF will assemble and operate, when deemed appropriate by the DOT Crisis Coordinator, from the DOT Crisis Management Center, Room 7332, DOT Headquarters Building, 400 Seventh Street S.W. in Washington, DC.

2. Regional-Level Response Support Structure

The RETCO is responsible for the implementation and coordination of the Federal transportation assistance activity with other Federal entities and with State and local government entities within each RETCO's assigned jurisdiction. The RETCO, assisted by the supporting Federal agencies identified in each regional plan, will perform the following:

(1) Upon implementation of this Plan, establish a fully operational emergency transportation response center at a location designated by the RETCO in accordance with the appropriate regional plan;

(2) Establish liaison with the regional Damage Information ESF to facilitate the flow of damage information;

(3) Establish liaison with the designated State/local official(s) identified in the applicable regional plan to facilitate the flow of information and State/local transportation requirements;

(4) Accumulate an inventory of State, local, and regionally available Federal transportation services which are not required to support the owning or contracting agencies' immediate emergency mission requirements; and

(5) Provide reports to the DOT Crisis Coordinator as required by the Coordinator.

C. Notification Procedures

1. Headquarters

a. The initial notification will be sent by FEMA to the DOT Office of Emergency Transportation (202–426–4118) during normal duty hours or to the USCG Flag Plot (202–426–1830) during nonduty hours.

b. The contacted entity will implement the appropriate DOT alerting procedures and notify immediately the HET–ESF members from the Interstate Commerce Commission (ICC) and the GSA.

c. The ICC and GSA representatives will report as required to the DOT Crisis Management Center.

2. Region

a. The affected RETCO(s) initially will be alerted in accordance with regional earthquake response plans.

b. Upon notification, the affected RETCO(s) will implement the RETCO's notification plan and establish communications with the DOT Crisis Management Center.

D. Initial Actions

1. Headquarters

a. Immediately following implementation of the notification procedures, priority attention will be directed toward the following:

(1) Establishing communications with the concerned RETCO(s);

(2) Establishing communications with FEMA to obtain the location of the earthquake's epicenter, possible damage areas, degree of damage, and other available information;

(3) Providing appropriate representation to the CDRG and, if required, to FEMA Headquarters; and

(4) Implementing the appropriate provisions of the DOT Crisis Action Plan to ensure adequate staff and logistical support.

b. The DOT Crisis Coordinator or, as appropriate, members of the HET–ESF will be available to provide assistance upon request of the RETCO.

c. Primary reliance for communications capability will be placed upon systems operated by the DOT. Integration of the HET–ESF communication system with other involved Federal agencies will be accomplished through provisions of the applicable regional communication plan.

2. Region

a. The RETCO will give priority attention to:

(1) Establishing communications with the FCO;

(2) Establishing communications with the DOT Crisis Management Center;

(3) Implementing the appropriate provisions of the regional plan; and

(4) Exercising, as and when appropriate, civil transportation priorities and allocations derived from the Disaster Relief Act of 1974 and/or the Defense Production Act of 1950.

b. The regional RETCO will establish communications with the regional Damage Information ESF in order to receive damage information. To facilitate this information flow, the RETCO will establish liaison with that group and, where practical, provide liaison with communications capability compatible with the equipment used by the group. In the absence of liaison, the RETCO will receive information from the national-level Damage Information ESF if communications between the two groups are operating, or through the FCO if communications between the two groups are not functioning.

c. The initial concentration of the RETCO will be to provide transportation assistance to Federal agencies requiring assistance to meet their disaster assignments. Federal agencies having transportation services will notify the RETCO concerning type, number, and availability. The RETCO will accumulate Federal transportation service requirements directly from Federal agencies and redistribute the available Federal transportation services to those agencies. If available Federal transportation services are insufficient to meet initial requirements, the RETCO will assist Federal agencies in obtaining civil transportation services. Care will be taken to coordinate obtaining such civil transportation services with the appropriate State and local governmental entities to avoid placing competing service demands upon the civil transportation sector.

d. Under conditions where State and local governmental entities require Federal assistance to obtain transportation services to supplement their own capability, the RETCO will attempt to meet the demands from available Federal capability. If available Federal transportation services are insufficient to meet the demand, the RETCO will assist the State and local governmental entities, upon their request, in obtaining civil transportation services.

e. The RETCO will provide necessary coordination with appropriate State and local agencies to facilitate the flow of civil transportation services involving the movement of persons and things to, from, and within the disaster area(s).

f. The RETCO will maintain continual surveillance over the availability of both Federal and civil transportation services and supporting resources. Shortage conditions will be reported immediately to the FCO.

g. The RETCO will be responsible for the administrative support of individuals supporting emergency transportation operations.

V. Responsibilities

A. Primary Agency: Department of Transportation

1. Implement, as required, DOT emergency-related functions to include, but not limited to, the prioritization and/or allocation of all or part of civil transportation services, air and marine traffic control, emergency highway funding, hazardous material containment response, and damage assessment.

2. Coordinate, as required, the provision of Federal transportation services in support of Federal agencies, volunteer agencies, and State and local governmental entities.

3. Assist the GSA, upon their request, in support of its responsibility to provide GSA-procured transportation services for nonmilitary Federal agencies.

4. Assist DOD Transportation Operating Agencies (TOAs), upon their request, in support of their responsibility to provide TOA-procured transportation services.

5. Provide federally arranged transportation support, in coordination with the GSA and ICC to:

(1) State and local governmental entities and volunteer agencies;

(2) Nonmilitary Federal agencies upon request of the GSA; and

(3) Federal military TOAs upon their request.

6. Assist State and local governmental entities in determining the most viable available transportation networks to, from, and within the disaster area.

7. Identify supporting resource shortages, accumulate such requirements, and submit the requirements to the appropriate authority. Provide for the prioritization or allocation of available supporting resources as they are made available, if required.

8. Upon the identification of transportation services shortfalls, report such shortfalls to the FCO for resolution of usage priority.

9. In coordination with the ICC, implement and administer civil transportation control systems if the disaster situation requires the implementation of such controls.

10. Provide damage information on a regular basis to the Damage Information ESF.

B. Support Agencies

1. Interstate Commerce Commission

a. Assist the DOT, as required, in providing federally arranged transportation support to Federal agencies, volunteer agencies, and State and local governmental entities.

b. Administer such DOT civil transportation control systems (e.g., priorities and allocations) as may be requested of the Chairman of the Interstate Commerce Commission when so requested by the Secretary of Transportation.

2. General Services Administration

a. Provide GSA procured transportation services in accordance with Federal Procurement Regulations for nonmilitary Federal agencies requiring such services, in coordination with the DOT as may be appropriate.

b. Assist the DOT, as required, in providing federally arranged transportation support to Federal agencies, volunteer agencies, and State and local governmental entities.

3. Other Agencies

a. The responsibilities listed below in paragraph IV 3.b. apply to the following agencies:

(1) United States Department of Agriculture (USDA),

(2) Department of Defense (DOD);

(3) Department of the Interior (DOI);

(4) FEMA;

(5) GSA;

(6) ICC;

(7) US Army Corps of Engineers (Civil Works); and

(8) US Postal Service (USPS).

b. The agencies listed above in paragraph IV 3.a will:

(1) Make available those Federal transportation services not required by the agency to fulfill its emergency mission;

(2) Make available those civil transportation services under contract at the time of a disaster not required by the agency for its emergency mission;

(3) Provide representation to a regional response group formed to facilitate the coordination and distribution of Federal assistance to Federal, State, and local governmental agencies experiencing resource shortfalls; and

(4) As it relates to the US Army Corps of Engineers (Civil Works), provides support to DOT in the emergency operation of inland waterways, ports, and harbors to include specifically dredging operations.

VI. Resource Requirements

Estimated resource requirements will be developed during the regional planning process following estimates of the potential demands for transportation services.

VII. Definitions

A. *Civil transportation services which means civil transportation capacity):* Service, equipment, facilities, and systems of all modes and types offering such service, equipment, facilities, and systems on a "for-hire" basis.

B. *Federal transportation services:* Services, equipment, facilities, and systems owned or contractually controlled by the Federal Government which can be made available to support ESF #1's mission after the owning or controlling agencies have satisfied their support requirements in the conduct of their own disaster response efforts.

C. *GSA procured transportation services:* Civil transportation services required by nonmilitary Federal agencies and procured through GSA in accordance with Federal Procurement Regulations.

D. *DOD TOA procured transportation services:* Civil transportation services required by Federal military agencies and procured through appropriate DOD TOAs in accordance with Department of Defense Procurement Regulations.

E. *Federally arranged transportation support:* The identification of available civil transportation services, and assistance in procuring such services, in support of State and local governmental entities, volunteer agencies, and Federal agencies unable to obtain required services through normal civil transportation procurement channels.

VIII. References

The Defense Production Act of 1950.

COMMUNICATIONS ANNEX—EMERGENCY SUPPORT FUNCTION #2

I. Introduction

A. Purpose

This annex describes the coordinated Federal actions that will be taken to assure the provision of Federal telecommunications support to Federal, State, and local response efforts following a catastrophic earthquake. This annex is intended to supplement the provisions of the National Plan for Communications Support in Emergencies and Major Disasters (July 1983), hereinafter referred to as the National Communications Support Plan (NCSP).

B. Scope

This ESF involves the coordinated Federal actions taken to assure the provision of Federal telecommunications support to Federal, State, and local response elements. It entails the establishment of temporary communications in the disaster area to support the FCO and other Federal organizations involved in the emergency response phase of disaster relief.

II. Policies

A. The NCSP will govern all Federal telecommunications related response efforts.

B. The NCSP shall be implemented immediately upon the request of FEMA. The initial focus will be to identify:

(1) Residual telecommunications facilities available for use within the affected area,

(2) Telecommunications facilities not within the affected area which may be brought physically or electronically to bear to support the affected area, and

(3) Actual and planned actions of the commercial telecommunications companies toward recovery and reconstruction of their facilities.

C. The Regional Emergency Communications Coordinator (RECC) will coordinate with the FEMA Regional Director or the FCO (when in place) the provision of Federal telecommunications assistance to State and local governments and to quasi-governmental agencies and volunteer agencies involved in the response effort.

D. An Emergency Communications Staff (ECS) will be organized in the affected region. The ECS will consist of at least a Federal Emergency Communications Coordinator (FECC), a Radio Communications Coordinator (RCC), a senior General Services Administration Communications Representative (GSACR), a Military Communications Representative (MCR) where appropriate, and representatives of affected commercial telecommunications firms. The FECC will be the Chief of the ECS.

E. Federal telecommunications assets are subject to management actions by the Manager and Regional Manager, National Communications System (NCS) (RMNCS) when authorized by the Office of Science and Technology Policy and the Executive Agent, NCS.

F. Department of Defense (DOD) will provide assistance in accordance with DOD Directive 3025.1.

III. Situation

A. Disaster Condition

The sudden and unexpected nature of a catastrophic earthquake and its extensive damage will result in extensive requests from State and local authorities for services required to save lives and alleviate human suffering. These authorities will require accurate and timely information on which to base their decisions and focus their response actions. Concomitantly, widespread damage to commercial communications facilities is likely. At a time when the need for real-time electronically processed information is greatest, that capability will be seriously restricted or nonexistent. The Federal Government will face the same problems in responding to requests from State and local authorities for assistance. All surviving telecommunications assets of the various levels of government, augmented by extra regional assets, will be needed immediately to assure a proper response to the needs of victims of the event.

B. Planning Assumptions

1. Initially, State and local government officials will focus on coordinating lifesaving activities concurrent with reestablishing control of the disaster area. They will accomplish as much restoration and reconstruction of telecommunications facilities as the situation permits.

2. Initial reports of damage will be fragmented and provide an incomplete picture concerning the extent of the damage to telecommunications facilities.

3. Weather and other environmental factors may restrict the ability of suppliers to deploy mobile or transportable telecommunications equipment into the affected area.

4. The affected region may be unable to communicate with the rest of the country. Individuals may be isolated from their regional counterparts.

5. Aftershocks would necessitate the careful consideration of sites for establishing the Disaster Field Office (DFO) in the least vulnerable location supportable by available telecommunications facilities.

IV. Concept of Operations

A. Organization

1. The Manager, NCS will establish a Communications Resources Manager (CRM) and staff in the NCS headquarters building. The Deputy Manager of the NCS National Coordinating Center (NCC) will serve as the CRM and the NCS/Defense Communications Agency Operation Center (NCS/DCA–OC) will designate government/industry members of the NCC as his staff. The Manager, NCS also may deploy a designated CRM to the DFO as required. The CRM will adjudicate conflicting claims for resources. The Federal level organization structure is shown in Figure 2.1.

2. The Manager, NCS will provide a liaison officer to FEMA Headquarters.

3. At the regional level, the GSA RECC shall monitor the situation; assist the ECS and the FECC to consolidate regional-level requests for assistance; consolidate reports for vertical and horizontal distribution; and present resource claims which cannot be resolved by the FECC or the RECC to the manager NCS by the fastest possible means for CRM resolution. The CRM will allocate or reallocate NCS-managed services according to the priorities established by national-level authority. The regional and DFO organization is shown in Figure 2.2.

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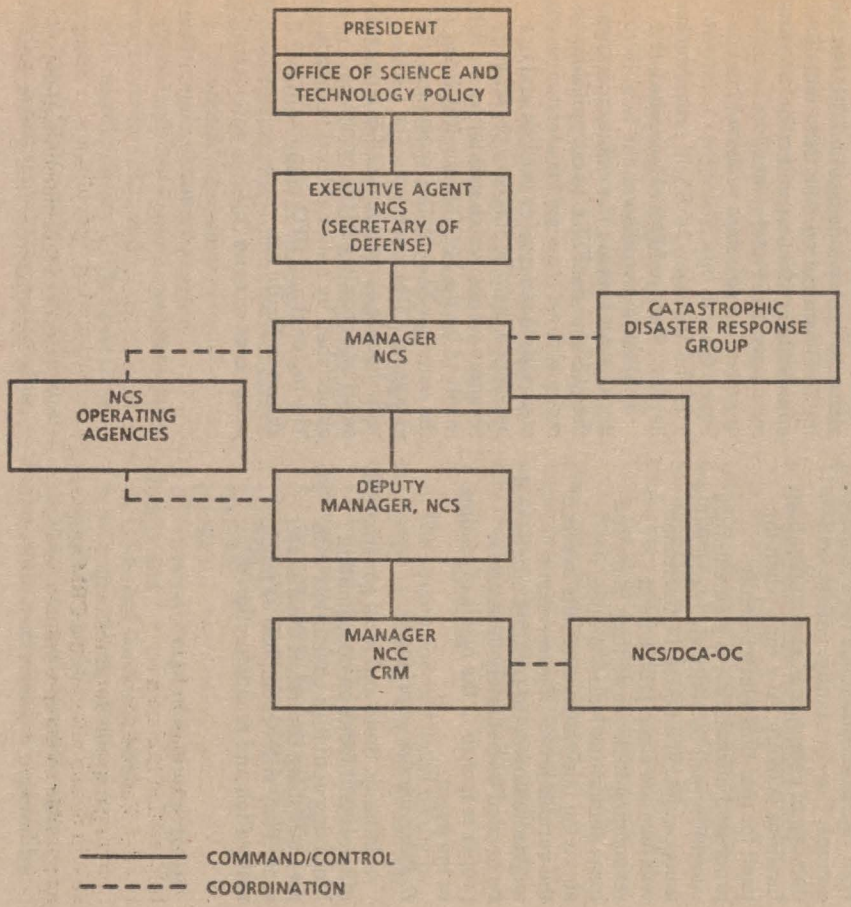


Figure 2.1 Federal Level Organization

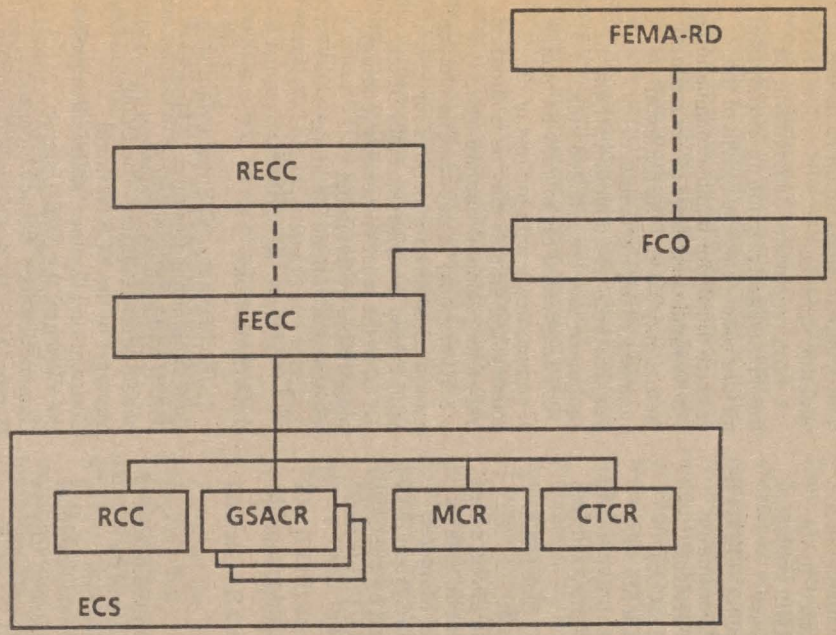


Figure 2.2 Regional and DFO Organization

4. At the DFO, the FECC shall be assigned by the Regional Administrator, GSA to the staff of the FCO and shall function as Chief of the ECS. The FECC shall be the principal advisor to the FCO for telecommunications matters. The ECS shall be composed of specialists drawn from the NCS Operating Agencies and the telecommunications industry as needed. Generally the ECS will contain an RCC, GSACRs, an MCR when DOD provides telecommunications support, and Commercial Telephone Carrier Representatives (CTCR), as appropriate.

5. Those organizations identified as members of the ECS will have a representative at the DFO on a 24-hour basis.

6. NCS operating agencies will be represented in the NCC and may be required to provide coverage on a 24-hour basis throughout the immediate emergency response phase.

B. Notification Procedure

1. After the notification to implement the National Plan, the Deputy Manager, NCC will alert all NCC personnel and assume control. During nonduty hours the NCS/DCA–OC will advise the Deputy Manager, NCC who will direct that NCC personnel be recalled.

2. Immediately upon notification, the NCC will establish contact with FEMA to obtain information and guidance.

C. Initial Actions

1. Immediately upon notification to execute the National Plan, the Deputy Manager, NCC will assume the responsibilities of the CRM and begin gathering damage assessment data from government and industry representatives of the NCC.

2. Until the NCC Staff is assembled, the NCS/DCA–OC will accumulate damage information obtained from their agency and industry contacts.

3. The RECC of the affected region and the RECC of immediate adjacent regions will assist the CRM and the NCC in identifying any undamaged facilities both in and adjacent to the affected area.

4. NCC personnel shall begin inventory of communications assets available to support their mission(s). They may be tasked to contribute assets to the response effort. The Manager, NCS and the CRM will be kept informed of these assets and their status.

5. The NCC shall:

(1) Obtain from FEMA the location of the proposed DFO;

(2) Obtain from the National Weather Service the latest weather report for the area, including present conditions, the 24-hour forecast, and the long-range forecast;

(3) Obtain information from the Transportation ESF about road, rail, and air transportation conditions in the area and whether they can be used to get mobile telecommunications systems into the area; and

(4) Determine from FEMA the location of possible sources of secondary response locations in the disaster area; e.g., staging areas, Disaster Assistance Centers, satellite DFOs, etc.

6. The RECC of the affected region and the CRM in Washington will assess jointly the need for mobile or transportable telecommunications equipment and may request NCS operating agencies to identify assets for possible deployment.

7. The NCC will assess the need for telecommunications industry support so that such support is available as needed.

8. As reports arrive at the RECC location, they will be processed in accordance with the NCSP.

9. The members of the NCS operating agencies whose organizations have been tasked to provide assets will confirm to the RMNCS that those assets have been prepared for movement to the disaster area, as and when needed.

10. The Communications ESF shall:

(1) Provide Federal telecommunications support to all responding Federal agencies, State and local governments and quasigovernmental and volunteer agencies as directed by the FEMA RD, or the FCO when in place;

(2) Be prepared to release Federal telecommunications resources as soon as commercial carrier services can support the response mission;

(3) Maintain an audit trail of all telecommunications support provided. NCS operating agencies procedures shall be used to accomplish this audit; and

(4) Provide telecommunications support on a management by exception basis. Problems are to be solved at the lowest level possible. Problems which cannot be resolved at one level will be referred up the chain outlined in this annex until they are resolved.

11. During the first 72 hours, all levels of the ESF possessing pertinent data will provide updates at 6-hour intervals to the RECC and the NCS/DCA–OC through established channels.

12. The CRM and NCC will provide damage information to the Damage Information ESF on a regular basis, and to other Federal agencies upon request. Standing requests for information should be submitted to the CRM as soon as possible so that procedures can be developed for acquiring the information.

13. The RECC in the affected region will develop supplemental reports based upon requirements of the NCSP and provide these reports through channels to the CRM.

14. Requests for telecommunications support will come from many sources. The FCO/SCO will set the priorities for fulfilling these requests. The FECC will adjudicate competing requests within these priorities.

15. The DOD representative to the Manager, NCS will monitor the availability of DOD telecommunications assets. Requests for DOD support will be processed through US Army channels starting at the Continental US Army level in accordance with plans and procedures for military support to civil authorities.

16. NCC government and industry representatives will be aware of their parent organizations' capabilities to provide resources for telecommunications activities.

17. The Manager, NCS will be the NCS principal point of contact with the Catastrophic Disaster Response Group (CDRG).

18. Movement of personnel into the disaster area will be accomplished in accordance with the Emergency Transportation Annex.

19. The NCC will develop and promulgate information collection guidelines and procedures to enhance assessment, allocation, and reallocation of telecommunications industry assets.

V. Responsibilities

A. Primary Agency: National Communications System

1. The National Communications System Manager will:

(1) Provide communications support in accordance with the National Plan for Communications Support In Emergencies and Major Disasters and regional earthquake response plans in emergencies and major disasters;

(2) Coordinate, integrate, and manage overall Federal telecommunications support; and

(3) Provide information to the Damage Information ESF on a regular basis regarding damages to Federal, State and local communications systems and surviving communications capabilities.

2. The FECC and the ECS will provide onsite Federal resources to satisfy requests for Federal telecommunications assistance.

B. Support Agencies

1. Department of Agriculture

a. Maintain radio communications systems for support of firefighters, law

enforcement officers, and disaster recovery operations through the National Interagency Fire Coordination Center.

b. Provide engineers, technical personnel, and liaison staff to assist the ECS and to maintain the USDA radio systems.

c. Provide USDA radio systems for use by damage reconnaissance teams to report information from the disaster area to the DFO, and such other applications as determined by the radio communications coordinator. Provide a communications officer to accompany radio systems for the purpose of user training and operator maintenance indoctrination. Provide additional radio systems required for the establishment of a Disaster Assistance Center radio net.

2. Department of Defense

a. Provide assistance consistent with Annex I of the National Plan for Communications Support In Emergencies and Major Disasters and DOD Directive 3025.1, including military support to civil authorities and coordination of deployment of Civil Air Patrol telecommunications assets when requested.

b. Provide for sustained emergency communications support to the FEMA field activity, to include the operations of a DOD tactical switchboard within the DFO with a capability to interface with commercial, Federal Telecommunications System (FTS), and AUTOVON networks.

c. Provide an experienced military communications field grade officer to:

(1) Assist the FECC in determining communications capability;

(2) Evaluate surviving communications capability;

(3) Channel all requests for equipment through military command channels;

(4) Arrange for the deployment of military mobile/transportable communications teams and equipment to the disaster area in support of the FCO; and

(5) Provide access for FECC-authorized users to DOD-operated radio transceivers and mobile units as a means of providing emergency communications between DFO and municipal central radio stations having teletype circuit links with city and county locations.

3. Department of the Interior

Provide radio and radio-telephone systems not necessary for meeting DOI emergency missions. DOI will make those systems available for use by the FECC and ECS when necessary to support response operations.

4. Department of Transportation

a. Provide air traffic control for all aircraft in the designated area. Arrange for the FAA Emergency Radio System to be used by other Federal organizations when it does not interfere with the FAA's mission.

b. Arrange for access to the FAA FM communications system, which consists of base stations, mobile units, and repeaters.

c. Make available DOT mobile telecommunications facilities to other Federal organizations when not required to support other DOT missions.

d. Provide, subject to statutory mission requirements, transportable communications station and personnel to provide immediate interface at the DFO with the commercial and FTS networks.

5. Federal Emergency Management Agency

a. Provide a FEMA Regional Communications Manager to serve on the ECS.

b. Provide radio equipment, radio spectrum management, other organic telecommunications support, and mobile communications assets of the direction, Control, and Warning System while maintaining ownership and operational control of those assets.

c. Provide State and local officials with available communications to assist in the dissemination of warnings to the populace of risks and hazards.

6. General Services Administration

a. In accordance with the National Plan for Communications Support In Emergencies and Major Disasters, provide the FECC and the Regional Emergency Communications Coordinator.

b. Provide communications representatives to augment the ECS.

VI. Resource Requirements

A. Assets Critical for the Initial 12 Hours

The assets below are of critical importance to providing telecommunications to the affected area. Immediately following the earthquake, agencies possessing these assets should determine quickly the availability of these assets:

(1) Mobile or transportable telecommunications equipment;

(2) Multichannel systems from DOD, or others; and

(3) US Air Force, Civil Air Patrol, and other aircraft suitable as platforms for airborne radio repeaters.

B. Support for Field Activities

The American Radio Relay League, the Military Affiliated Radio System, and similar organizations may be asked to provide volunteers to participate in voice and hardcopy message processing. These groups also may provide temporary service to isolated areas.

VII. References

A. Executive Order 11490, October 30, 1969.

B. Executive Order 12472, April 3, 1984.

C. National Plan for Communications Support in Emergencies and Major Disasters, July 1983.

D. Department of Defense Directive 3025.1, "Use of Military Resources During Peacetime Civil Emergencies Within the United States, its Territories, and Possessions," May 23, 1980 as amended.

E. US Army Regulation 500–60, September 1, 1981.

F. Headquarters, US Army Forces Command, Military Assistance to Civil Authority Plan, Annex G (Communications), April 28, 1978, with changes.

G. Agency Asset Usage Plans for individual NCS Operating Agencies, various dates.

H. Telecommunications Industry entity plans for responding to crisis and emergency situations, various dates.

CONSTRUCTION MANAGEMENT ANNEX—EMERGENCY SUPPORT FUNCTION #3

I. Introduction

A. Purpose

This annex prescribes policies, guidance, and operating procedures for construction management following a catastrophic earthquake.

B. Scope

This annex involves engineering construction activities and emergency contracting services. It involves:

(1) Emergency removal of debris from affected streets, roads, bridges, airfields, ports, wharfs, and waterways to expedite lifesaving, life protecting, health, and safety operations during the immediate response phase and to facilitate initial reconnaissance of the damaged area;

(2) Construction of emergency access roads; emergency restoration of essential public services and facilities including temporary repair of disaster damaged streets, roads, and airfields; and temporary repair or replacement of bridges;

(3) Emergency demolition of damaged structures and facilities designated by State or local government as immediate hazards to the public health and safety, or as necessary to facilitate the accomplishment of lifesaving operations; undertaking temporary protective measures to abate immediate hazards to the public for health and safety reasons until demolition is accomplished; providing technical advice to assist local authorities in the identification of structures and facilities to be demolished; and identifying possible sources of secondary hazards in the disaster area; and

(4) Acquisition and delivery of potable water to mass care facilities.

II. Policies

A. Predeclaration

In the predeclaration period, the US Army Corps of Engineers (USACE) will provide immediate assistance based on its authorities in accordance with Department of Defense (DOD) Directive 3025.1 and Engineer Regulation (ER) 500–1–1.

1. DOD Directive 3025.1

This directive gives policy and guidance for military commanders to provide support to civil authorities under peacetime civil emergency conditions. Use of DOD military resources shall be limited to those resources not immediately required for the execution of the primary military mission. Efforts would be supplemental to non-DOD resources and would be required to save lives and minimize property damage. Assistance to State and local interests normally is provided on a reimbursable basis under a civil agency's emergency authority.

2. ER 500–1–1

This regulation describes the USACE authorities, policies, and procedures for responding to both natural and man-made emergencies or disasters. The USACE's primary authority for response is Pub. L. 84–99, as amended, Flood Control and Coastal Emergencies.

B. Postdeclaration

In the postdeclaration period, the USACE will provide immediate response under this ESF to the unmet needs of local and State agencies. The initial focus of construction management will be to:

(1) Identify the extent of damages and identify unmet needs;

(2) Identify and quantify ESF missions;

(3) Identify resource requirements; and

(4) Identify availability of response elements.

C. USACE Representation

Upon notification that a catastrophic earthquake has occurred, the Emergency Management Branch from the USACE Headquarters in Washington, DC will identify the representative to the Catastrophic Disaster Response Group (CDRG) and ensure that person is available to report to FEMA if required by the chairperson of the CDRG.

III. Situation

A. Disaster Condition

A catastrophic earthquake will cause unprecedented property damage. Structures will be destroyed or severely weakened. Homes, public buildings, bridges, and other facilities will have to be reinforced or demolished to ensure safety. Debris will make streets and highways impassable. Additionally, water, gas, and waste water lines will fail. There will be major electric power outages with power reduction in many areas. A major earthquake will affect the lives of many State and local response personnel preventing them from performing their prescribed emergency duties. Similarly, equipment in the immediate disaster area will be damaged or inaccessible. Sufficient resources will not be available to State and local agencies to meet emergency requirements. Federal assistance will be required to identify and deploy resources from outside the affected area to ensure a timely, efficient, and effective response.

B. Planning Assumptions

1. A catastrophic earthquake will overwhelm the resources of State and local agencies.

2. Assistance from the Federal Government will be needed to clear debris, make emergency repairs to essential public utilities, and reduce hazards through induced reinforcing or demolition.

3. Access to affected areas is fundamental to a rapid response operation.

4. Disaster relief operations, such as medical treatment, are dependent upon the reestablishment of ground routes.

5. In many locations debris removal and emergency road repairs will be given top priority to support immediate lifesaving emergency response activities.

IV. Concept of Operations

A. General

The concept of operations provides for a massive, integrated Federal response effort to supplement State and local emergency response actions immediately following a catastrophic earthquake. The concept focuses on the Federal structure for coordination of the Federal response at both national and regional levels. The concept of operations calls for an automatic response by Federal organizations to carry out the provisions of the National Plan immediately following its implementation. It takes into consideration the large influx of response personnel and resources expected into the designated area from throughout the United States.

B. Organization

1. National Level Response Support Structure

a. The Construction Management ESF will operate under the direction of the Chief, Emergency Operations Section, Emergency Management Branch, HQUSACE.

b. The Chief, Emergency Operations Section, will represent the ESF in its dealings with the CDRG.

c. Primary ESF members will have a representative available for assembly at a location designated by the chairperson for 24-hour-a-day duty.

d. Standby members do not provide initial representation, but will have a representative available on a 24-hour basis.

e. Execution of this Emergency Support Function (ESF) within the disaster area will be accomplished by USACE Division and District offices responsible for the affected area; or the adjacent Division and District offices, if those in the affected area should be inoperable. All requests for USACE assistance will be made to the appropriate Division Engineer(s).

f. The USACE Division Engineer(s) in the affected area will coordinate required actions with the appropriate USACE District(s), other Federal agencies, and adjacent USACE Divisions.

g. The Division Engineer(s) will provide liaison with the Continental United States Army (CONUSA) Commander(s) if military resources are determined to be required to support ESF activities.

2. Regional Level Response Structure

a. Divisions and Districts will designate a representative to the Emergency Support Team (EST) along with a designated alternate. The representatives will be available on a 24-hour basis and should be capable of

responding with 2 to 6 hours of notification.

b. Divisions and Districts will also establish Regional Response Groups (RRG) to be made up of qualified personnel to meet the mission requirements of the ESF of the National Plan. The RRG members should also be capable of responding within 2 to 6 hours of notification.

c. Division and District RRG representatives will:

(1) Identify the extent of damages and identify unmet needs;

(2) Identify and quantify potential ESF missions;

(3) Identify resource requirements and availability of response;

(4) Notify adjacent USACE Division(s) and other supporting regional Federal agencies of the event;

(5) Confirm that ESF members tasked to provide personnel have alerted those personnel for possible movement to the disaster area;

(6) Be prepared to provide assistance to the regional group(s) conducting construction management activities; and

(7) Maintain communications with the regional group(s) responsible for coordinating and conducting construction management activities.

d. All USACE Divisions and Districts will prepare an earthquake response plan and/or supplement in support of the National Plan for Federal Response to a Catastrophic Earthquake. The response plan or supplement will be updated annually and exercised as may be required. Division and District policies and procedures should be reviewed and updated annually, and exercised as applicable.

C. Notification

Upon notification by FEMA that a catastrophic earthquake has occurred and the National Plan is in effect, the Chief, Emergency Operations Section, will notify all members of the ESF and the affected USACE Divisions. ESF members will confirm the notification with their parent organizations.

D. Initial Actions

1. Upon notification that the National Plan is in effect, the RRG primary members will report to the designated location within 2 to 6 hours of notification and will respond to requests from State and local agencies in accordance with Pub. L. 93–288.

2. The RRG will address the following issues or actions:

(1) Determine State and local response capabilities;

(2) Determine the affected USACE Division(s)/District(s) readiness;

(3) Coordinate with the Damage Information ESF;

(4) Coordinate with the Transportation ESF; and

(5) Determine the location of possible sources of secondary hazards in the disaster area.

3. The RRG will immediately forward information derived from the initial damage reconnaissance missions from the USACE Division in the affected area to the ESF at HQUSACE Emergency Operations Center (EOC). RRG will provide an initial report by telephone as soon as possible. During the first 72 hours following the earthquake, the RRG will provide updates at 6-hour intervals. Critical information will be passed immediately. Prioritization of resources will be made at the regional level. Conflicts which cannot be resolved will be referred to the CDRG at FEMA headquarters.

4. The ESF will provide critical information to the CDRG and concerned agencies immediately.

5. The RRG will maintain close coordination with the HQUSACE Emergency Operations Center.

6. The RRG will provide situation reports to the ESF which will at a minimum include the following:

(1) A general situation summary, identifying key areas damaged or threatened, essential transportation systems out of service, essential public services or facilities damages, and any other significant situations or problems;

(2) Description of efforts by State and local interests identifying activities of State and local interests, evaluating their capabilities, and identifying their unmet needs;

(3) Description of Regional Response Group (RRG) actions identifying the nature of actions taken in response for Federal assistance from State and local interests; and

(4) Descriptions of resources identifying resource requirements and priorities.

7. The RRG, chaired by the USACE, is responsible for accomplishing the emergency removal of debris and for the restoration of essential public facilities and services following a catastrophic earthquake. Immediately following the event and the directive to implement the National Plan, the RRG will respond immediately to the emergency needs of State and local interests. These actions will be to save life, prevent human suffering, and mitigate property damage. The RRG(s) will advise the ESF of its actions by timely situation reports.

8. The responsible USACE Division/District will coordinate the overall mission for the regional level Federal construction management response efforts. Each agency will coordinate mission requirements with its regional counterpart.

9. If accomplishment of the mission requires support beyond the existing regional capabilities, the RRG will communicate requirements to the ESF.

V. Responsibilities

A. Primary Agency: US Army Corps of Engineers

1. Manage and coordinate Federal emergency construction services to affected State and local governmental entities.

2. Coordinate, as required, arrangements for debris clearance, demolition, and the temporary repair of essential public services and facilities.

3. Coordinate the scheduling of construction resources to, from, and within the earthquake disaster area.

4. Provide reports to the Damage Information ESF regarding damages on a regular basis.

B. Support Agencies

1. Department of Agriculture

Provide technical assistance in support of the USACE for the repair or replacement of roads, bridges, and airfields.

2. Department of Defense

Provide available military resources (technical assistance, personnel, supplies, and equipment) required to assist the USACE in debris removal, emergency demolition, supplying emergency power, supplying emergency drinking water, and restoration of essential public facilities.

3. Department of Energy

Provide technical assistance, equipment and materials to reestablish electrical transmission capability and distribution facilities within the affected area.

4. Department of the Interior

a. Provide qualified engineers to assist the USACE in evaluating damage to water control facilities.

b. Provide technical assistance, equipment, and materiel to support USACE debris removal, emergency restoration of public facilities, and demolition, including contracting specialists and qualified structural engineers.

5. Department of Labor

Provide supplemental technical assistance in support of the USACE for the emergency removal of disaster-related debris and wreckage from public

and private property determined to be of immediate danger to public health and safety.

6. Department of Transportation

a. Provide technical assistance, equipment, and supplies as required in support of the USACE's mission to accomplish emergency removal of debris from affected streets, roads, bridges, airfields, and waterways. This support will also include technical assistance to accomplish emergency repair or replacement of roads, bridges, and airfields.

b. Coordinate provision of information on transportation routes for equipment access into the disaster area.

c. Provide technical assistance in emergency demolition activity as it relates to removal of damaged structures at airfields.

d. Provide qualified highway and structural engineers to support emergency demolition activities.

e. Provide supplemental equipment, manpower, and material in support of the USACE emergency demolition activity as it relates to the removal of disaster-related debris and wreckage from ports, wharfs, docks, and waterways.

f. Provide technical assistance in support of the USACE emergency demolition and debris removal activities in support of maritime operations, to include establishment and patrol of safety zones, and notifications as required to maritime interests.

7. Environmental Protection Agency

Locate disposal sites for debris clearance activities and provide qualified engineers to assist in assessing damage to water and waste systems and reviewing or assessing repairs to or replacement of these facilities.

8. Federal Emergency Management Agency

In coordination with State officials, establish priorities for debris removal and for the emergency restoration of essential public facilities and services.

9. General Services Administration

Provide technical assistance, equipment, and materiel (including contracting specialists, qualified structural engineers, and transportation support) for debris removal, emergency restoration of public facilities, and demolition.

VI. Resource Requirements

A. Supplies and Equipment

1. Lists of supplies and equipment available for use in the disaster will be prepared and maintained by each Federal agency. These lists should include floating plant, flood fighting materials, construction material and equipment, communications equipment, and emergency office supplies.

2. State and local agencies will claim the majority of engineering and construction resources in the disaster area. Therefore, it is essential that each Federal agency identify resources required to execute its missions and maintain a list of regional suppliers and specialty contractors. Agreements with the contracting industry should be made and kept current.

3. Each member of the RRG will prepare and maintain a package of materials to be provided for immediate use by the team. Information to be included will cover organizational policies and procedures, communications, emergency organization and functions, availability of supplies and equipment, notification procedures, and other information peculiar to that agency.

B. Facilities

The establishment of a separate Disaster Field Office by the regional response group(s) during disaster operations is essential to an effective disaster response. The RRG's DFO should be located within or adjacent to the affected area and as near as practicable to the DFO established by FEMA. If possible, office space should be requested at Federal, State, or local facilities.

VII. References

A. Department of Defense Directive 3025.1, "Use of Military Resources During Peacetime Civil Emergencies Within the United States, Its Territories, and Possessions," May 23, 1980 as amended.

B. Engineer Regulation 500–1–1, "Emergency Employment of Army and Other Resources, Natural Disaster Procedures", December 21, 1983.

C. Pub. L. 93–288, "Disaster Relief Act of 1974", May 22, 1974, as amended.

FIREFIGHTING—EMERGENCY SUPPORT FUNCTION #4

I. Introduction

A. Purpose

The purpose of the firefighting ESF is the detection and suppression of wildland, rural, and urban fires resulting from, or occurring coincidentally with, a catastrophic earthquake.

B. Scope

This ESF involves managing and coordinating firefighting activities including the detection and suppression of fires on Federal lands and providing personnel, equipment, and supplies in support of State and local agencies involved in rural and urban firefighting operations.

II. Policies

Appropriate policies contained in agency directives and procedures manuals shall be followed by agencies involved in firefighting operations. National support shall be accomplished through the National Interagency Fire Coordination Center (NIFCC) located at Boise, Idaho. Priority shall be given to saving lives and protecting property in that order.

III. Situation

A. Disaster Condition

Under the best of circumstances, the management of a large firefighting operation is complex, often involving thousands of people and several different agencies and jurisdictions. Fires resulting from, or independent of but coincident with a catastrophic earthquake will place extraordinary demands on available resources and logistics support systems.

A major earthquake will result in many urban, rural, and wildland fires. Ignition sources of little concern under normal conditions could cause hundreds of fires during and after an earthquake. The damage potential from fires in urban areas during and after a major earthquake exceeds that of all other causes. Numerous fires are anticipated in rural and wildland settings as well. Under the worst conditions, these fires will have the potential to spread rapidly, cause extensive damage, and pose a serious threat to life and property. Urban fire departments, not incapacitated by the earthquake, will be totally committed to fires in urban areas. Normally available firefighting resources will be difficult to obtain and utilize because of massive disruption of communication, transportation, utility, and water systems.

B. Planning Assumptions

1. Many urban, rural, and wildland fires will result from or occur coincidentally with the earthquake. Large, damaging fires will be common.

2. At the time of the earthquake, there may be major wildfires burning elsewhere in the United States. These fires may draw upon the same resources (people, equipment, and supplies) that would be needed to support firefighting and other earthquake-related emergency operations. It must be assumed that some firefighting resources will become scarce resulting in earthquake-related

firefighting operations competing with wildfire suppression operations elsewhere for resources.

3. Landline communications will be interrupted. Radio communication will be relied upon heavily, necessitating the early ordering of radio systems from NIFCC.

4. Wheeled-vehicle access will be hampered by bridge failures, landslides, etc., making conventional travel to the fire location extremely difficult or impossible. Aerial attack by airtankers, helicopters, and smokejumpers may be essential in these situations. Helicopters will be scarce resources and usable airports congested.

5. Agencies which commonly support large fire suppression operations, including the military and General Services Administration (GSA), will receive urgent requests from non-fire-related agencies for personnel, equipment and supplies. Many of the resources commonly available for use in fighting large wildfires will be scarce or unavailable.

6. Wildland firefighting forces may be diverted to control fires in rural and urban areas because of more urgent threat to life and property.

7. Wildfire firefighting techniques may have to be applied to rural and urban fire situations, particularly where water systems are inoperative. Aerial delivery of fire retardants or water for structural protection may be essential. In the case of mass fires, the clearing of fire breaks and use of burning out and backfiring techniques may be used.

IV. Concept of Operations

A. General

National Fire Suppression Liaison Officers will serve as liaison between FEMA, responsible primary and secondary Federal agencies, NIFCC, and the Regional Fire Suppression Support Coordinator. National firefighting response and logistics support will be provided by NIFCC.

B. Organization

1. National-Level Response Support Structure

Upon notification by FEMA, the Forest Service will provide National Fire Suppression Liaison Officers to carry out ESF responsibilities in coordination with national support agency representatives and regional counterparts. National logistical support and interregional mobilization of resources shall be provided by NIFCC.

2. Regional-level Response Structure

Federal firefighting response support is coordinated by the Fire Suppression Support Coordinator provided by the Forest Service Regional Office. The Regional Fire Suppression Support Coordinator, operating under the direction of the FCO, has responsibility for establishing and maintaining coordination with the National Fire Suppression Liaison Officer, the Forest Service Region, and regional support agencies. Requests for support shall be processed through Regional Fire Coordination Centers and NIFCC in accordance with established Mobilization Guides.

3. Notification

The National Fire Suppression Liaison Officer will notify support agency representatives and NIFCC of National Plan implementation and operational requirements.

4. Initial Actions

a. National Fire Suppression Liaison Officers will locate either at FEMA Headquarters or at the Forest Service Fire and Aviation Management Office in Rosslyn, Virginia.

b. The Forest Service Director at NIFCC shall implement Planning Level IV upon notification of National Plan implementation.

c. The National Fire Suppression Liaison Officer shall assure that communication links with FEMA, national primary and support agencies, NIFCC, and the Regional Fire Suppression Support Coordinator are established.

V. Responsibilities

A. Primary Agency: Department of Agriculture—Forest Service

1. Provide qualified representatives to serve as Fire Support Coordinators to the FCO onsite and to the national-level CDRG in Washington, DC.

2. Task support agencies as necessary to accomplish ESF support responsibilities.

3. Provide logistics support through NIFCC for mobilizing national resources for firefighting.

4. Assume full responsibility for suppression of wildfires burning on or threatening National Forest System lands.

5. Provide for and coordinate firefighting assistance to other Federal land management organizations and to State Forestry and local fire organizations as requested under the terms of existing agreements and the National Plan.

6. Arrange for direct liaison with fire chiefs in the designated area to coordinate requests for firefighting assistance in structural/industrial fire protection operations.

7. Coordinate support for dockside fire situations in connection with bay access and water-related duties.

8. Provide information to the Damage Information ESF as assessments of fire-caused damages are obtained.

B. Support Agencies

1. Department of Commerce

Provide fire-weather forecasting as needed from the Interagency Fire Coordination Center in Boise, Idaho, or from a nearby National Weather Service Forecast Office under the terms of existing interagency agreements.

2. Department of Defense

a. Assume full responsibility for firefighting activities on US military installations.

b. Support firefighting operations on nonmilitary lands with personnel, equipment, and supplies under the terms of existing interagency agreements.

c. Provide personnel, equipment, and material to be used for emergency firefighting tasks within the disaster area or to be used in direct support of emergency firefighting activities within the disaster area.

d. Arrange liaison for movement of military firefighting resources outside their normal mutual aid zones when required.

e. Provide ship-borne water delivery capability for dockside firefighting when required and available.

f. Provide limited radio communications for use between cooperating fire services where there is no common radio frequency.

3. Department of the Interior

a. Assume full responsibility for fighting wildfires burning on lands under its jurisdiction.

b. Assist the USDA in managing and coordinating firefighting operations.

c. Provide firefighting assistance to other Federal land management organizations and to State Forestry and local firefighting organizations as requested, under the terms of existing agreements and the National Plan.

4. Department of Transportation

Provide assistance to local firefighting units in connection with water-related firefighting activities.

5. Federal Emergency Management Agency

Provide advice and assistance relating to structural firefighting.

6. General Services Administration

Support firefighting operations with equipment and supplies under the terms of existing interagency agreements and the National Plan.

7. U.S. Army Corps of Engineers

Provide contracting services to urban and rural firefighting forces to obtain heavy equipment and/or demolition services as needed to suppress disaster-related fires.

C. Other Organizations

State Forestry organizations, in most States, have the primary responsibility for wildland firefighting on non-Federal lands. States may assist other States in firefighting operations under the auspices of a Federal agency, and may assist Federal agencies through agreement.

VI. Resources Requirements

A. Emergency Support Function

The Forest Service and Bureau of Land Management national offices shall provide sufficient National Fire Suppression Liaison Officers to assure 24-hour operation when necessary.

B. Incident Support

Local, regional, and national fire suppression resources will be necessary. These resources are identified in appropriate Mobilization Guides. Local, regional, and national logistics support organizations are established and in place.

VII. References

National Mobilization Guide (NIFCC).

VIII. Terms and Definitions

A. National Fire Suppression Liaison Officer

The person primarily responsible for operation of the National Firefighting Emergency Support Function.

B. National Interagency Fire Coordination Center (NIFCC)

The organization responsible for coordination of national emergency response for wildfire suppression, located at the Boise Interagency Fire Center, Boise, Idaho.

C. Planning Level IV

The worst of four fire hazard scenarios described in the NIFCC National Mobilization Guide. It is NIFCC's highest level of readiness and action.

D. Regional Fire Suppression Support Coordinator

The person primarily responsible for operation of the Regional Firefighting Emergency Support Function.

DAMAGE INFORMATION ANNEX—EMERGENCY SUPPORT FUNCTION #5

I. Introduction

A. Purpose

This annex describes coordinated Federal actions for gathering, collating, and disseminating information on damages, including casualties, following a catastrophic earthquake. Its purpose is to develop continuous, up-to-date assessments of the type, magnitude, and extent of damages. This information will be used by Federal, State, and local officials to gauge the magnitude of the required response effort and to prioritize the allocation of staff and materials for lifesaving and life-support purposes.

B. Scope

This annex is applicable to all Federal departments and agencies with assets for gathering damage information, especially those organizations with aerial reconnaissance and hazard-monitoring capabilities. It involves the acquisition of all forms of damage information, as rapidly as possible, to assist Federal officials in formulating accurate assessments of the disaster situation. It includes gathering, collating, and disseminating information regarding the magnitude and extent of earthquake damage. It entails reporting information concerning casualties, as well as areas of major damage, locations of fires, blocked traffic routes, collapsed significant buildings, and destroyed major facilities such as airfields, bridges, dams, overpasses, ports, wharfs, and docks. The information also will be used to warn the populace of risks and hazards.

II. Policies

A. The Federal Government will commence air reconnaissance operations of the affected area immediately upon the confirmation of a catastrophic earthquake.

B. The initial focus of damage reconnaissance and assessment will be to identify:

(1) Boundaries of the disaster area and locations of greatest damage;

(2) Areas suitable for accommodating evacuees and providing mass care;

(3) Feasible transportation arteries into the affected areas; and

(4) Areas of potential risk because of secondary hazards; e.g., radiological contamination, flooding, etc.

C. All sources will provide damage information to the damage information Emergency Support Function, which will report it to the Catastrophic Disaster Response Group (CDRG) at the National level and the Federal Coordinating Officer's (FCO) Reports Officer at the Regional level.

D. The primary Joint Information Center (JIC) will be authorized to release damage information to the public. Other JIC's may also release damage information at the discretion of the FCO's Lead Public Affairs Officer.

E. The Department of Defense (DOD) will provide assistance in accordance with DOD Directive 3025.1. (Refer to III B3 of this Annex.)

III. Situation

A. Disaster Condition

The suddenness and devastation associated with a catastrophic earthquake will result in numerous requests from State and local authorities for help in saving lives and alleviating human suffering. These authorities will require accurate and timely information on which to base their decisions and focus their response actions. The Federal Government possesses reconnaissance assets, unavailable to the State, which can provide State officials with timely, area-wide assessments of the extent of damages. Following the initial assessment, the Federal Government can support State and local development of more detailed damage assessments.

B. Planning Assumptions

1. Initially, State and local government officials will focus on coordinating lifesaving activities and reestablishing control of the disaster area. They will be unable to conduct area-wide damage assessments.

2. Initial reports of damage will be fragmented and provide an incomplete picture concerning the extent of damages.

3. Federal, regional, and State officials will request an immediate aerial reconnaissance to determine the overall impact of the earthquake.

4. Weather and other environmental factors may restrict aerial reconnaissance operations, thus requiring repeated efforts to obtain essential information. Such problems could delay completion of a full assessment for several days, but an initial report will be provided no later than 12 hours after the event.

5. Following the initial reconnaissance and assessment, more detailed

assessments will be needed regarding the structural integrity of buildings, bridges, and roads. Information regarding other components of the social, economic, and transportation infrastructures also will be required.

6. Aftershocks would necessitate the reevaluation of examined areas.

IV. Concept of Operations

A. General

As shown in Figure 5–1, the Disaster Information ESF has a parallel structure at both the National and Regional levels. Each has a two-part sub-structure composed of core and remote agencies as described in paragraphs B1 and B2 below. The National ESF head will report to the Catastrophic Disaster Response Group (CDRG) and will maintain liaison with the Regional ESF head and the ESSG. The Regional ESF head will report to the FCO and will maintain liaison with the FCO's Reports Officer and the National ESF head.

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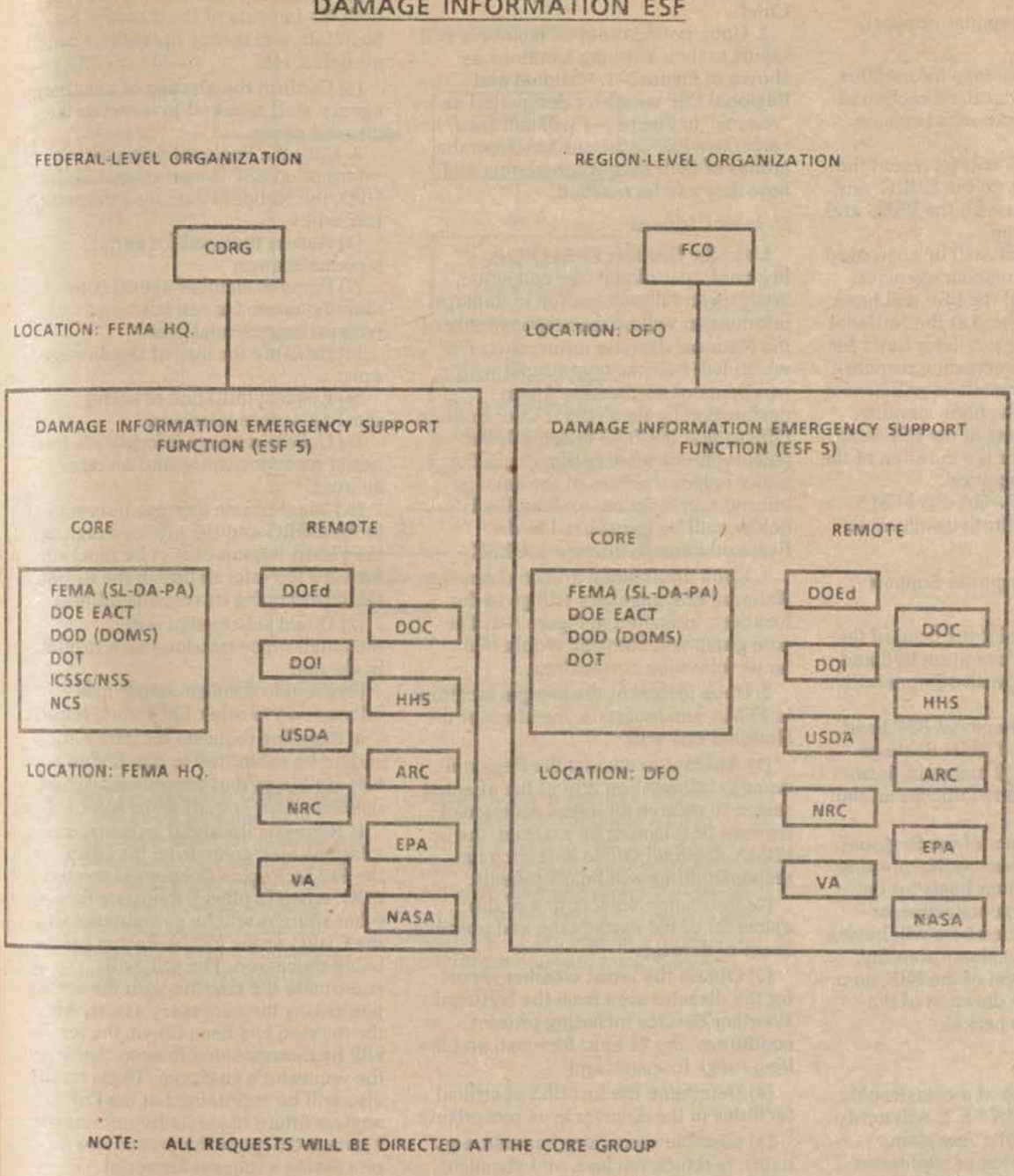


Figure 5-1. Composition of the Damage Information Emergency Support Function

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B. Organization

1. National-Level Response Support Structure

a. The National Damage Information ESF will operate under the direction of the Chief, Public Assistance Division (PAD), FEMA.

b. The Chief, PAD, will represent the ESF in its dealings with the CDRG, and will maintain liaison with the ESSG and the Regional ESF head.

c. The National ESF will be composed of core and remote member agencies. The core members of the ESF will have a representative present at the National operations center on a 24-hour basis for the duration of the emergency response period. The remote members will have a representative on telephone standby, available upon request of the ESF head, on a 24-hour basis for the duration of the emergency response period.

d. Headquarters SL–DA–PA FEMA will provide administrative support to the ESF.

2. Regional-Level Response Support Structure

a. FEMA will appoint the head of the Regional Damage Information ESF and will provide the ESF with administrative support.

b. The appointed Regional ESF head will represent the ESF in its dealings with the FCO and will maintain liaison with the FCO's Reports Officer and the National ESF head.

c. The core members of the Regional ESF will have a representative present at the DFO on a 24-hour basis for the duration of the emergency response period. The remote members will have a representative on telephone standby, available upon request of the ESF, on a 24-hour basis for the duration of the emergency response period.

C. Notification

1. Upon occurrence of a catastrophic earthquake, the FEMA EICC will notify the Chief, FEMA Public Assistance Division of the decision to implement the National Plan. All other ESF members will be notified by the PAD Chief.

2. Upon notification, all members will report to their working locations as shown in Figure 5–1. National and Regional ESF members designated as "remote" in Figure 5–1 will call their respective ESF locations to inform the groups of their own whereabouts and how they can be reached.

D. Initial Actions

Until the Disaster Field Office becomes operational, the collection, analysis and dissemination of damage information will be the responsibility of the National disaster information ESF which will become operational within two hours of notification. Upon declaration by the Federal Coordinating Officer that the DFO is operational (several hours after notification), the major responsibilities of the damage information function, as described below, will be transferred to the Regional damage information ESF.

1. Upon notification and confirmation, National ESF members will go to the locations indicated in Figure 5–1. The core group will convene within two hours following notification.

2. Upon arrival at the group's location in FEMA headquarters, members of the National ESF will:

(1) Attempt to contact the Regional damage information ESF at the affected region to receive an initial estimate of damage (if it cannot be reached, the FEMA Regional Office assuming its responsibilities will be contacted);

(2) Determine the location of the epicenter of the earthquake and possible areas of damage;

(3) Obtain the latest weather report for the disaster area from the National Weather Service including present conditions, the 24-hour forecast, and the long-range forecast; and

(4) Determine the location of critical facilities in the disaster area comprising:

(a) possible secondary hazards, e.g., dams, reactors, nuclear, and chemical waste sites, etc.; and

(b) necessary resources for coping with the impacts of the disaster, e.g., hospitals, emergency operations centers, air fields, etc.

(5) Confirm the alerting of member agency staff required to travel to the disaster scene.

3. Until the Regional damage information ESF is operational at the DFO, the National damage information ESF will:

(1) Assess the need for aerial reconnaissance;

(2) Request member agencies to identify assets for needed reconnaissance missions;

(3) Estimate the size of the damaged area;

(4) Request initiation of aerial reconnaissance missions;

(5) Collate damage information from aerial reconnaissance and all other sources;

(6.) Disseminate damage information to the CDRG and the affected region. If the FEMA Region cannot be reached, forward the information to the Regional Office assuming its responsibilities;

(7) Direct subsequent aerial reconnaissance missions on a regular basis; and

(8) Provide damage assessment information to other ESFs upon request.

4. Standing requests for information should be submitted to this ESF as soon as possible so that procedures can be developed for acquiring the information.

5. Requests for aerial reconnaissance missions may come from the CDRG or the FEMA Region (Regional Director or FCO, when in place). Requests from other sources will be coordinated with the CDRG or the FEMA Region before being processed. The ESF will coordinate the mission with the agency possessing the necessary assets. After the mission has been flown, the results will be disseminated in accordance with the requestor's guidance. These results also will be maintained at the ESF to answer future requests for information. Figure 5–2 depicts the procedures for processing a request for aerial reconnaissance.

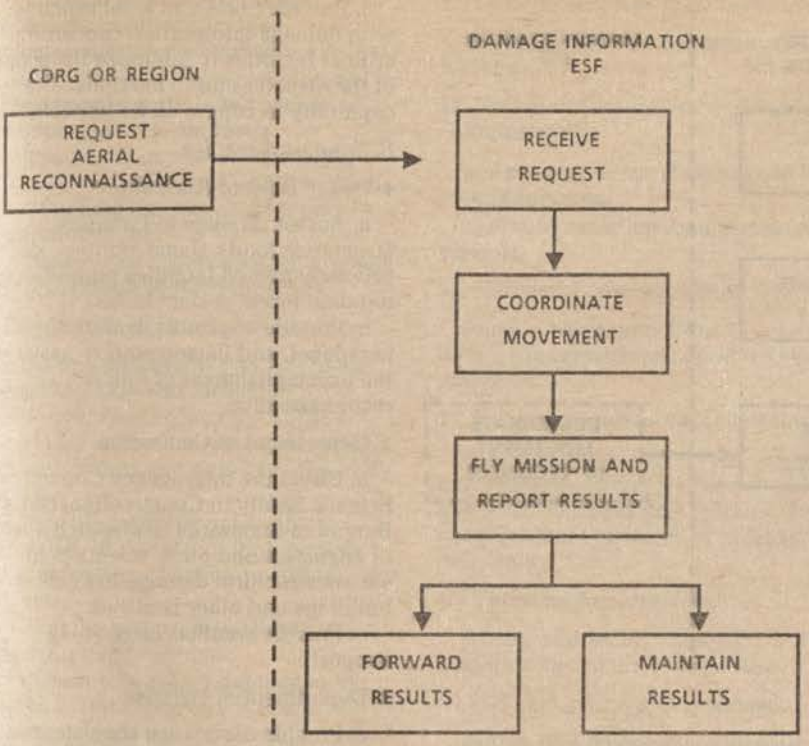


Figure 5-2. Procedure for Processing a Request for Aerial Reconnaissance

6. Requests for ground reconnaissance assistance will come from the FEMA Region. Requests from other sources will be coordinated with the CDRG and the FEMA Region before being processed. The ESF will coordinate the request among its member agencies. One or more of the agencies then will provide the necessary resources for ground reconnaissance assistance. Their movement to the Region will be coordinated with the Region and, if required, the ESF for Transportation. The Region then will direct the use of these resources. Figure 5-3 depicts the procedures for processing a request for ground reconnaissance assistance.

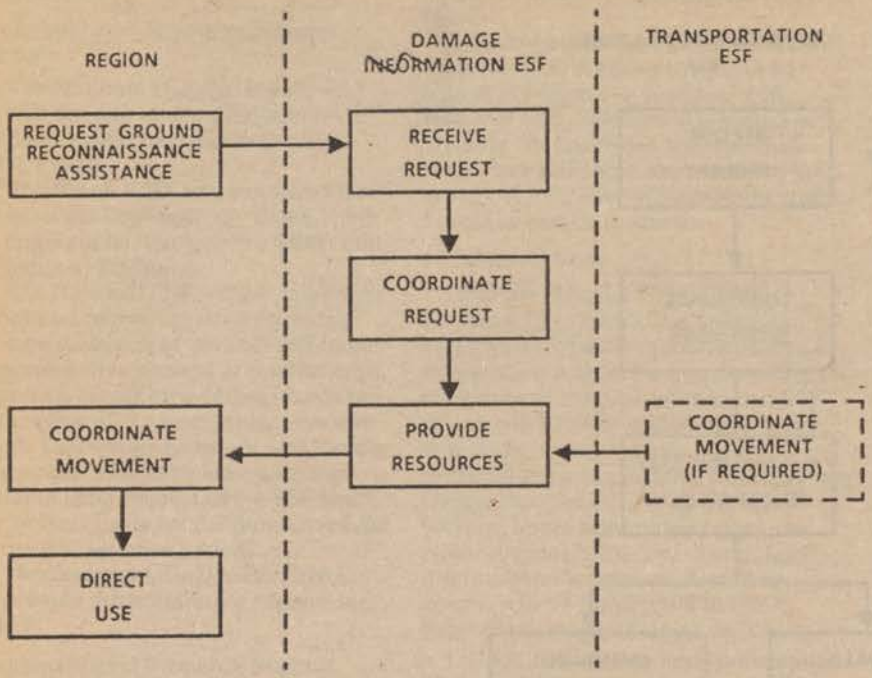


Figure 5-3. Procedure for Processing a Request for Ground Reconnaissance Assistance

7. Requests for information from the CDRG, other ESFs, and the Region and states will be honored. Requests from other organizations will first be validated with one of these organizations before being processed.

8. Upon becoming operational, the Regional ESF will:

(1) Assume responsibility for continuing performance of the tasks listed in V.D.3–7;

(2) Collect damage and casualty information from the other Emergency Support Functions and all other sources;

(3) Collate and analyze the damage information;

(4) Provide reports to the FCO's Reports Officer and the National damage information ESF. Damage information in these reports will be formated by type, magnitude, extent and implications. The discussion of implications will address the effects of the reported damages, the level of them, and any special problems anticipated in responding to them, such as legal or jurisdictional impediments; and

(5) Coordinate with the FCO's Reports Officer to facilitate processing up-to-date damage information for use by the FCO and others for decisionmaking.

9. The DOD representative to the ESF will monitor availability of DOD aerial reconnaissance assets, inform the ESF and forward all requests for their use. The DOE representative will follow the same procedure for use of the DOE aerial measuring system.

10. All members of the ESF will be aware of their parent organizations' capabilities to provide resources for air and ground reconnaissance activities.

11. Conflicts which cannot be resolved by the National or Regional ESFs will be referred to the CDRG, or FCO, respectively.

V. Responsibilities

A. Primary Agency: Federal Emergency Management Agency

1. Coordinate, integrate, and manage the overall Federal efforts to collect, collate, analyze, and disseminate damage information.

2. Provide state and local officials with damage information to assist them in providing support for the allocation of lifesaving and life-supporting resources.

3. Provide State and local officials with damage information concerning critical facilities to minimize the scope of the disaster and to maximize the capability to cope with its impacts.

B. Support Agencies

1. Department of Agriculture

a. Assess damage to facilities, structures, roads, dams, utilities, and privately owned facilities permitted on national forest system lands.

b. Provide engineers, technical personnel, and liaison staff to assist in the accomplishment of initial reconnaissance.

2. Department of Commerce

a. Direct the Interagency Council on Seismic Safety in Construction/National Bureau of Standards to dispatch a team of engineers and other scientists to assess structural damage to Federal buildings and other facilities.

b. Provide weather forecasting support.

3. Department of Defense

a. Provide assistance consistent with DOD Directive 3025.1. This includes, but is not limited to:

(1) Conducting aerial photographic reconnaissance and interpretation;

(2) Coordinating Civil Air Patrol assets in damage reconnaissance; and

(3) Providing resources to assist in damage reconnaissance activities.

b. Conduct initial reconnaissance of the disaster area to determine the extent and location of damages.

c. Identify boundaries of areas receiving major damage, locations of fires, blocked traffic routes, collapsed buildings, destroyed bridges, and damaged major airfields.

d. Provide initial disaster reconnaissance data.

4. Department of Education

Survey education facilities to assess their viability as mass care or other disaster support facilities.

5. Department of Energy

a. Assist in radiological monitoring and assessments on request of cognizant Federal or State agencies under the provisions of FEMA's Federal Radiological Emergency Response Plan.

b. Provide information on the condition and operation of energy production, transmission, and distribution systems.

6. Department of the Interior

a. Assess and report damage in and around Indian reservations and national park areas.

b. Provide available personnel to participate in other damage reconnaissance as required.

c. Provide technical assistance and advice concerning the assessment of continuing geologic hazards.

d. Provide assistance in gathering transient scientific data useful in studies of earthquake risk, prediction, and hazard reduction.

e. Assess and report damage to dams and other flood protection works.

7. Department of Transportation

a. Assess and report damage to air navigation aids and airfields.

b. Provide emergency air traffic control for aircraft involved in damage reconnaissance and aerial photography flights.

c. Provide professional staff, as requested, to assist in initial damage reconnaissance of highway and railway systems.

d. Provide consolidated damage data on affected rail systems.

e. Assess and report damage to the Saint Lawrence Seaway if it is in the designated area.

f. Assess and report damage to ports, navigable waterways, navigation aids, and other facilities.

g. Provide available ground transportation, watercraft, and aircraft.

h. Provide professional staff to assist in the assessment of damage to public and private mass transportation systems, equipment, and facilities.

i. Provide liaison and coordination with State and local public transportation agencies regarding the location and extent of such damage and the immediate need for emergency repairs.

8. Health and Human Services

a. Estimate and report casualties and damages to private sector hospitals and other health care facilities.

b. Obtain information from appropriate State officials on estimates of numbers of casualties and their locations.

9. American Red Cross

a. Gather and report damage information.

b. Gather and report information on numbers and locations of uninjured homeless people.

10. Environmental Protection Agency

a. Assess and report damages to water/waste treatment facilities.

b. Conduct hazardous materials and hazardous waste reconnaissance actions.

11. General Services Administration

Assess and report damage to GSA facilities.

12. National Aeronautics and Space Administration

a. Assess and report damage to NASA ground facilities.

b. Provide satellite reconnaissance support.

13. National Communications System

Provide communications to support damage reconnaissance and assessment activities.

14. Nuclear Regulatory Commission

Provide information on the condition and operation of nuclear power plants and other facilities that produce, store or use significant amounts of radioactive materials.

15. Veterans Administration

Assess and report damage to VA hospitals and other VA facilities.

16. U.S. Army Corps of Engineers

Assess and report damage to dams and other flood protection works.

VI. Resource Requirements

A. Assets Critical for Initial 12 Hours

Immediately following the earthquake, the DOD and DOE should advise the National ESF of the availability of appropriate resources and their proximity to the affected area. The assets listed below will have a critical effect on the performance of the initial damage reconnaissance:

(1) United States Air Force reconnaissance aircraft and DOD photographic interpretation assets, and

(2) DOE Aerial Measuring System (AMS), remote sensing resources.

B. Support for Field Activities

The American Society of Civil Engineers and similar organizations will be asked to provide volunteers to participate in damage assessment operations.

C. Support for Activities of the ESF

1. FEMA will provide the administrative supplies, office space, communications, and support personnel for the ESF.

2. The NCS will provide additional communication assets as required.

3. Movement of personnel into the disaster area will be accomplished in accordance with the provisions of the Emergency Transportation Annex (ESF 1).

VII. Terms and Definitions

A. Aerial Measuring System (AMS)

The DOE AMS is maintained to provide a rapid response of resources for conducting remote radiological sensing operations. AMS can provide extensive multispectral scanning, large format aerial photography, and airborne large-area radiometric surveys.

B. Cognizant Federal Agency

This term is defined in the Federal Radiological Emergency Response Plan (50FR 46568), as "the Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for a radiological activity causing an emergency and that has the authority to take action on site." This concept will have relevance to the damage information ESF if a radiological emergency occurs as a result of a catastrophic earthquake.

C. Critical Facilities

These are facilities which, if damaged in an earthquake, can result either in increasing the magnitude of the disaster or reducing the capacity to respond effectively. Critical facilities of the first type include dams, nuclear reactors, toxic waste sites and other facilities which, if damaged or if they fail, could result in significant additional loss of life or property. The second type of critical facilities are those needed to respond to the disaster and include lifeline systems such as communication, transportation and utility systems, or facilities needed to cope with the disaster, e.g., emergency operation centers, hospitals, fire, police and ambulance services, blood banks, clinical laboratories, etc.

D. Public Assistance Division, State and Local Programs and Support Directorate, FEMA (SL–DA–PA–FEMA)

The Public Assistance Division develops and administers policy and guidance that ensures the effective implementation of disaster relief programs to State and local governments and serves as lead on the damage information ESF.

MASS CARE ANNEX—EMERGENCY SUPPORT FUNCTION #6

I. Introduction

A. Purpose

This annex describes coordinated efforts to perform sheltering, feeding and first aid activities as well as reporting status of disaster victims following a catastrophic earthquake.

B. Scope

The mass care function encompasses:

(1) The operation of feeding facilities (fixed sites and mobile units) and emergency shelters within earthquake affected areas. Emergency shelters will be established for residents whose homes were rendered uninhabitable or inaccessible as the result of the earthquake. Sheltering will continue until the displaced disaster victims are able to return to their homes or secure alternative (temporary or permanent) housing. Fixed site and mobile feeding will be offered to emergency shelter occupants, to local residents repairing their earthquake damaged homes but unable to purchase or prepare their own meals, and to emergency workers without access to commercial food facilities.

(2) The operation of first aid stations at shelters, feeding stations, and designated sites within disaster damaged areas.

(3) The operation of centers for the individual assistance and bulk distribution of relief items to disaster victims.

(4) The operation of a Disaster Welfare Inquiry System (DWI) for reporting on individuals and families residing within the disaster affected area.

II. Policies

Sheltering, feeding, and first aid activities will begin immediately after the earthquake's occurrence (or before, if there is advance warning). However, disrupted transportation and communication systems may delay the comprehensive organization of these activities, throughout the disaster affected area, for up to 72 hours after the earthquake's onset.

A. The initial national-level Federal and Red Cross response will support the requests and needs of their local counterparts. If necessary, national-level Federal and Red Cross elements may decide to provide direct administration of the local relief and response effort.

B. Feeding, sheltering, individual assistance, first aid, and DWI services will be provided without regard to race, creed, national origin, or immigration status.

C. Feeding, sheltering, and first aid station activities will be provided, following the earthquake, for the period of time jointly determined by Red Cross and local, State, Federal disaster response officials.

D. The Red Cross will maintain administrative and financial control over its activities.

E. Feeding for emergency workers will be provided until commercial food facilities are made available, or alternative arrangements are established by the workers' parent organization.

F. All appropriate and available government (local, State and Federal) and voluntary resources will be used.

G. The transmission of Disaster Welfare Inquiry information will be restricted to immediate family members.

H. Information about injured casualties will be restricted to the location of hospitalized persons and statements from appropriate medical authorities as to the injured individual's general condition. The medical diagnosis of injured disaster victims will not be secured or reported by Red Cross.

I. The Red Cross listing of earthquake dead will be limited to officially confirmed fatalities.

J. The category "missing" will not be used by Red Cross. The inquirer will be told only that the person inquired about is not on any available casualty list.

K. Locator cards will be distributed to disaster victims throughout the earthquake-damaged area.

L. An initial DWI moratorium may be issued by Red Cross immediately following a catastrophic earthquake. The moritorium will not exceed 48 hours; the time will be used to activate the ARC DWI system and to secure information on the disaster affected area.

M. The DWI operation will be discontinued as soon as practical.

N. All ARC earthquake response and relief activities will conform to the ARC Board of Governor's Disaster Service Policy Statement of July 1977, and will be performed in accordance with the American Red Cross Disaster Services Regulations and Procedures: ARC 3000 Series.

III. Situation

A. Disaster Condition

The magnitude of catastrophic earthquake damage to structures and lifeline infrastructures will rapidly overwhelm the capacity of State and local governments to assess the disaster and respond effectively to basic and emergency human needs. Damage to roads, airports, communications systems, etc., will degrade the relief effort severely. The movement of emergency supplies will be drastically impeded. Many professional emergency workers and volunteers who normally would help during a disaster will be dead, injured, or involved with family problems resulting from the earthquake. Other emergency workers and volunteers will not be able to reach their assigned posts. State, county, and municipal emergency facilities will be severely damaged or inaccessible.

The earthquake will force hundreds of thousands of persons from their homes, necessitating their temporary relocation. Some will go to shelters; others will be with friends or relatives. There will be large numbers of dead and injured. Many of the injured will be treated and released, but their names may appear on casualty lists. Many of the more seriously injured will be transported to hospitals outside the disaster area—some of them hundreds of miles away. Medical facilities may be so overtaxed that accurate record-keeping on treated, released, hospitalized and transferred individuals may become impossible. Thousands of family members will be separated immediately after the earthquake; e.g., children in school and parents at work. Thousands of transients, some of them foreign nationals, will be involved. The restoration of communication systems, disrupted by damage and overloads, will take weeks. State and local officials and emergency response agencies must concentrate on lifesaving and lifesustaining activities. Therefore, it will be necessary to provide an external DWI system to handle the overwhelming number of inquiries.

B. Planning Assumptions

1. A formal operating structure for administering and managing feeding, shelters, first aid stations, individual assistance centers, and the disaster welfare inquiry system will be in place at the earthquake affected area within 72 hours after implementation of the National Plan.

2. Sheltering and feeding activities will be initiated and implemented according to plans developed by State and local governments, Red Cross chapters and operations headquarters offices, and the jurisdictional Federal Emergency Management Agency regional office.

3. The State government agencies, Federal agencies (at the regional level), and appropriate Red Cross national sector offices will provide logistical support for the shelters, feeding activities, assistance centers, first aid stations, and the DWI system.

4. Red Cross shelter and feeding activities will be required for at least 30 days after the earthquake's onset.

5. Red Cross emergency shelters should be prepared to house at least 300,000 people for 30 days.

6. The Red Cross Disaster Welfare Inquiry System should be capable of servicing one million disaster welfare inquiries, from around the world, within 30 days of the earthquake's onset. These inquiries will relate to persons who are residents of the disaster-affected area plus transients such as foreign and domestic tourists, business travelers, etc.

7. Normal communication systems will be disrupted for several weeks after the earthquake.

8. Surviving telephone service into and within the earthquake affected area will not be able to handle disaster relief inquiries.

9. The massive relocation of disaster victims will limit or prevent routine mail delivery.

IV. Concept of Operations

A. General

1. The American Red Cross (ARC) has primary responsibility for providing and coordinating mass care services. Federal agency resources will be made available, in conjunction with State and local government resources, to assist ARC to accomplish its mission.

2. In the event of a catastrophic earthquake, the ARC response will be started locally. Additional Red Cross disaster personnel will be sent immediately to the disaster area from throughout the United States. The ARC national sector will be responsible for coordinating the recruitment and assignment of volunteers and staff. The organization's national sector will direct the response through its jurisdictional operations headquarters unless the Red Cross National Headquarters assumes the responsibility.

3. The Red Cross National Headquarters will call a meeting of the mass care Emergency Support Function (ESF) immediately after a catastrophic earthquake. The ESF will evaluate the situation, consider and respond to Mass Care-related resources immediately requested from the impacted area, and anticipate additional resource requirements. The Red Cross representative to the Catastrophic Disaster Response Group (CDRG) will provide daily ESF status reports on its actions to the CDRG.

4. The ARC will arrange the necessary communications system to receive and disburse Disaster Welfare Inquiry Information. Red Cross will also inform the American public, through its local chapters nationwide, about the DWI services and how to use the service.

5. In the period immediately following a catastrophic earthquake, both Federal-regional and State response elements will not yet be functional. In the absence of regional or State response elements, the mass care function will be implemented by local efforts coordinated by a Red Cross team. This team will work with any Federal and State coordination elements sent to the area by FEMA and the State government. For example, the Red Cross will work with the Governor's office until an emergency response coordinator is designated. It is assumed that Federal agencies supporting the mass care efforts would deal with contacts in the State capital or the regional office. Information about needs, response, etc., obtained through such channels will be reviewed by the ESF and shared with the CDRG.

B. Organization Structure

The agencies listed below comprise the ESF. The ESF operating location will be at ARC National Headquarters. The ESF chairman will determine which agencies must provide a representative to be physically present when the ESF forms.

Agency	*Title*
ARC	Director, Disaster Services (Chairman).
	Assistant Director, Disaster Services (Deputy Chairman).
USPS	General Manager, Inplant Systems Divisions.
USDA	Food Program Specialist, Food Distribution Division, Food and Nutrition Service.
DHHS	Emergency Coordinator Program Specialist.
GSA	Federal Supply Service.
DOD	To be determined (TBD).
DOC	Bureau of the Census Liaison.
DOT	TBD.
DOI	TBD.
FEMA	SL-DA-IA.
VA	TBD.

C. Notification

1. FEMA or the National Earthquake Information Center in Golden, CO, will inform ARC of the occurrence of a catastrophic earthquake.

2. FEMA will inform ARC of the decision to implement the National Plan.

3. ARC will inform the Mass Care ESF Chairman of Plan implementation.

4. ARC will inform support agencies of Plan implementation and share information about what has occurred and initial response actions.

D. Initial Actions

1. The ARC will:

(1) Establish contact with the affected ARC Operations Headquarters;

(2) Assign a liaison to the CDRG at FEMA headquarters;

(3) Convene the ESF at ARC National Headquarters for a meeting to determine the status of initial emergency response; and

(4) At the meeting, ARC will determine:

(a) In which areas emergency sheltering and feeding responses can begin or are needed;

(b) What problems may arise in using pre-designated shelter facilities;

(c) If an adequate supply of food and water is available for implementation of initial mass care activity;

(d) What additional personnel will be needed immediately from outside the disaster area;

(e) What communications problems exist; what needs to be done to establish communications for mass care functional purposes; e.g., is the ARC radio net operable;

(f) What transportation is available for access to disaster area;

(g) What Red Cross chapters can accomplish during the first few days; and

(h) When DWI system can be activated and general public informed of the service.

2. The ESF members will determine:

(1) The status of agency regional response capability; and

(2) The availability of State and local resources in the affected area.

3. Upon conclusion of the meeting tasks, the ESF will initiate the basic functions involved in the mass care effort, including:

(1) Opening and operating all needed shelters;

(2) Providing three meals a day at fixed feeding locations;

(3) Providing mobile feeding for disaster victims and emergency workers;

(4) Providing first aid services in shelters, fixed feeding sites, and first aid stations;

(5) Distributing potable water and ice;

(6) Registering shelter residents;

(7) Providing disaster welfare inquiry/services;

(8) Staffing and supplying shelters, feeding units, first aid stations, and the DWI system;

(9) Providing transportation and supplies;

(10) Establishing communications between shelters, feeding units, and central headquarters;

(11) Distributing comfort kits, cleanup kits, and other appropriate assistance items;

(12) Managing logistical supplies and related fiscal activities such as recording expenditures and passing bills

from vendors to accounting units for payment; and

(13) Establishing a system for getting casualty information from medical service units in disaster area and hospitals outside area to which patients are sent.

4. The basic functions listed in number 3 above, will be accomplished at the local, regional and national levels through implementation of existing disaster plans.

5. The ESF members will monitor these activities and mobilize needed additional support.

6. Resources and policy guidance will be provided through operational channels established for the disaster response; i.e., ARC HQ to regional ARC Operations Headquarters. For example, if food supplies are a problem, the USDA representative on the ESF will make appropriate contacts and, with GSA, transport food commodities to supply centers for redistribution.

7. The ESF will evaluate the needs of the mass care function and present those needs to the CDRG for guidance in allocating resources most effectively.

8. ESF support agency representatives will provide coordination with their agencies to meet ESF needs using any existing arrangements for providing such support; e.g., the memorandum of understanding between ARC and DOD gives procedures for requesting DOD help through the nearest Continental U.S. Army. If that command cannot provide needed resources, ARC National Headquarters will relay the requests to the Pentagon. ARC requests may be made before a Presidential declaration. After such a declaration, ARC will coordinate local requests through the FEMA FCO and national requests through the CDRG member representing DOD.

9. Evaluation of support requests coming to the ESF from the CDRG and the FCO will be based on the following information:

(1) Latest information on the number of people requiring shelter, food, and first aid treatment plus the number of DWI requests received. This information will be compiled and reports daily through channels.

(2) Latest information on the number of people being housed and fed each day plus the number of DWI requests services. Numbers from a and b may not be the same, especially if there are shortfalls in service delivery. If the number from b is higher than that from a, the ESF will request field personnel to reevaluate mass care.

(3) Information on availability versus the requirement for facilities.

(4) Information about available food resources.

(5) Information about the restoration of public utilities and the estimated restoration of residential service.

(6) Logistical shortfalls that require national-level intervention, including communications, transport, supplies, and personnel.

10. The information from number 9 and related data will be reviewed by the ESF members. Related data includes timeframes for implementation of other assistance programs such as temporary housing. Needs will be assessed and requirements tasked to the specific agency or agencies involved. Some needs may be referred to other ESFs. The CDRG will be advised of all requests and the steps taken by the ESF to meet them.

11. Where scarce resources are involved, recommendations will be made to the CDRG to establish priorities. Some scarcities will be identified easily from items 9a–f; others may be nationwide in character and will be identified by either the CDRG or the Federal agency involved.

12. Information received from the regions will be shared immediately with all ESF members and the CDRG by phone or delivered hardcopy.

13. Administrative communications will be transmitted from shelter managers and feeding unit supervisors to the proper Red Cross administrative unit. These Red Cross units deal with local government agencies and other voluntary agencies. They also communicate administratively with an overall headquarters, which in turn deals with Federal and State agencies; e.g., the FCO or the SCO. Beyond this level, the unit reports to ARC operations headquarters just as Federal agencies on the scene will report to their regional offices. The regional offices report to the FCO, national-level ESF, and the CDRG.

14. The pattern described above in IV C.13 also applies to administration. The lowest level seeks logistical and personnel support and direction from the next level, keeping the next higher level apprised of ongoing activities, statistics, problems, and needs for policy guidance. At each level, the Red Cross supervisor is responsible for all activities within his/her jurisdiction. Tasking of Federal agencies for support activities is the responsibility of the ESF Chairman.

15. Coordination will follow the usual disaster system in the field. The normal Federal routines will be expanded to include the ESF role, although much of that coordination will follow normal disaster response patterns. The CDRG will be apprised of all contacts. The Mass Care ESF will coordinate its efforts with other ESFs through the CDRG liaison or directly with the chairman of the ESF concerned.

V. Responsibilities

A. Primary Agency: American Red Cross

1. Provide on a collective and/or individual basis, water, food, clothing, shelter, supplemental medical and nursing services, and emergency first aid treatment to the disaster-affected population.

2. Establish and operate mass care shelters and feeding facilities for displaced victims.

3. Provide organized emergency individual assistance service facilities within the disaster area for victims who do not require the use of mass care facilities.

4. Within its agreements, coordinate the provision of emergency assistance by any and all volunteer organizations in the field actively engaged in providing assistance to individuals.

5. Coordinate with State and local officials to provide necessary communications between shelters, feeding units, the main DWI Center, and central headquarters.

6. Coordinate the recruitment and assignment of volunteers and staff.

7. Provide a centralized computer/800 system on a standby basis, have a telephone company install 800-number lines at the computer center, and arrange for cadre to staff the center as needed.

8. Coordinate registration of shelter residents.

9. Coordinate with the USPS for the distribution, pickup, and mailing of relocation cards for disaster victims.

10. Establish a system for getting casualty information to the DWI Center from medical service units in the disaster area and from hospitals outside the area to which patients are sent.

11. Inform the general public about the DWI system and how to use it.

12. Provide shelter registration lists to the family unification unit established by State or local agencies.

13. Manage logistical supplies and related fiscal activities such as recording expenditures and passing bills from vendors to accounting units for payment for mass care operations.

B. Support Agencies

1. Department of Agriculture

a. Locate and secure supplies of Federally owned surplus foods to supplement those in the disaster area.

b. Arrange for provision of available Departmental resources (cots, blankets, sleeping bags, and first aid personnel) for the shelters.

2. Department of Commerce

Arrange for provision of census data on disaster areas and assistance in refining relocation data.

3. Department of Defense

Provide available resources such as communications, transportation, shelters, cots and blankets, field kitchens, food service personnel, and field rations.

4. Department of the Interior

Provide first aid personnel and shelters within national park facilities.

5. Health and Human Services

a. Assist in locating health and welfare workers to augment health services and family services personnel assigned to shelters.

b. Assist ARC Health Service units in obtaining casualty information to be transmitted to the main DWI Center.

c. Collate information about casualties transported to hospitals outside the disaster area.

6. Federal Emergency Management Agency

Assist in the release of information for notification of relatives and provide assessments of geographic damage information to the ARC.

7. General Services Administration

Provide communications links to the main DWI Center from the disaster area and provide other logistical support for mass care requirements as requested.

8. U.S. Postal Service

a. Provide locator cards for people to send to friends and relatives notifying them of relocation addresses and assist the ARC in the distribution, collection, and mailing of those cards.

b. Provide vehicles to support mass care efforts as requested.

9. Veterans Administration

a. Provide for food preparation and stockpiling during the immediate emergency.

b. Provide available mass shelter facilities.

VI. Resource Requirements

A. ESF Requirements

1. The Mass Care ESF will centralize its function in the Red Cross Headquarters Disaster Services office. Special telephone and secretarial support will be provided by ARC.

2. The ESF also will require a desk at FEMA for its CDRG liaison person.

3. Each support agency will supply at least one professional to be available in his/her own office, or at the Red Cross upon request of the ESF Chairman.

B. Support to State and Region

1. Resources which may have to be mobilized in support of State and regional mass care activities include cots and blankets, air mattresses, sleeping bags, portable toilets, water containers, cooking equipment, registration forms, first aid and shelter medical supplies, vehicles for transport of personnel and supplies, Red Cross comfort and clean-up kits, portable lamps, generators, office supplies, tables and chairs, fans, etc. Much of this already will be in shelter locations or can be obtained through normal disaster supply channels.

2. Vehicles will come from the Red Cross, Postal Service, military National Guard, rentals, etc. Also, feeding equipment, short-wave radios, phones, etc., may be needed.

3. Available undamaged facilities may have to be augmented by tents, paradomes, mobile homes, railroad cars, etc., from outside the disaster area.

4. Staff resources will include the Red Cross; voluntary agencies such as the Salvation Army, Southern Baptists, Volunteers of America, Mennonites, Church of the Brethren, Catholic Relief, and other members of the National Voluntary Organizations Active in Disaster; veterans groups; labor unions; scouting organizations; etc. Specially skilled individuals will be identified among these groups and from various Federal agencies by the ESF.

5. Information sources will be the Red Cross and appropriate Federal and State agencies.

VII. References

A. American Red Cross Board of Governor's Disaster Service Policy Statement (July 1977).

B. American Red Cross Disaster Service Regulations and Procedures (ARC 3000 Series).

RESOURCE SUPPORT ANNEX—EMERGENCY SUPPORT FUNCTION #7

I. Introduction

A. Purpose

This annex describes a coordinated Federal response for essential logistical/resource support following a catastrophic earthquake. Its purpose is to implement and guide logistical support to Federal agencies in the affected region(s) that will be used in support of lifesaving and life supporting requirements.

B. Scope

This Emergency Support Function (ESF) involves the overall provision of essential logistical and resource support to Federal, State, and local organizations responding to a catastrophic earthquake. It focuses on providing logistical support for requirements that are not specifically identified in each of the ESF. Therefore, this ESF includes the provision of emergency relief supplies, space, office equipment and supplies, telecommunications, contracting services, transportation services, and personnel necessary to support response activities. It entails the effort and activity necessary to evaluate the need for, locate, procure, and make available material resources. The ESF further involves the obtainment and provision to State and local governments and volunteer organizations of supplemental consumable supplies, including but not limited to those stocks surplus to the needs of the Federal Government.

II. Policies

A. The Federal logistic community will provide logistical assistance operations to the affected area immediately upon confirmation of a catastrophic earthquake and notification of implementation of the National Plan.

B. FEMA will provide a fund citation upon implementation of the National Plan for use in accomplishing the requirements of this function.

C. Supporting agencies' resources will be furnished on a minimum essential basis and terminated at the earliest practical time.

D. Supplies and equipment will not be set aside, earmarked, assembled, or stockpiled for use in connection with disaster relief operations or in anticipation of remote disaster requirements.

III. Situation

A. Disaster Condition

Any earthquake, regardless of intensity, is a geographically isolated incident. While there is a likelihood that regional productive capacity to respond will be crippled severely in the areas surrounding the epicenter, the remaining productive capacity of the Nation remains intact and assures swift and certain logistical support of the Federal response to alleviate the damage, hardship, and human suffering caused by the quake. The Federal logistic community has the capacity to meet most foreseeable logistic requirements.

The only area likely to encounter major shortfalls during the immediate post earthquake period is personal support of the disaster victims. There may be shortages of cots, sheets, blankets, pillows, pillowcases, tents for temporary shelter, plastic and paper items for mass feeding, and personal items.

B. Planning Assumptions

1. The disaster covered by this Plan will occur during peacetime and will not impact agencies' missions to support the Military Services during national emergencies. Should the United States be at war, the Federal logistics community will be devoted primarily to support of the Military Services, and major policy decisions involving allocation of available resources will be required of the Economic Resources Board (ERB).

2. Federal requirements must be met from resources outside the disaster area. All local resources will be claimed by the State to support its response operations.

3. All Federal resources must be transported to a nearby staging area prior to deployment into the disaster area. The staging area probably will be a National Guard facility or a major military base selected for both its proximity to the disaster area and its onhand resources.

4. Federal warehouses belonging to the logistic agencies within the designated area will suffer major structural damage. Supplies contained in these warehouses will be inaccessible during initial postdisaster operations but will be available at a later date as debris is cleared.

5. The Federal workforce within the disaster area will be overwhelmed and will require support from areas outside the designated area. A specific GSA regional backup support plan must be developed for each major earthquake-prone area. For example, Regions VII, VIII, and X would provide backup support for Region IX should the quake occur in California. (See Appendix B.)

IV. Concept of Operations

A. Organization

1. National-Level Response Support Structure

a. The General Services Administration (GSA) Emergency Coordinator will provide national guidance in support of regional operations from FEMA Headquarters.

b. As the GSA representative to the Catastrophic Disaster Response Group (CDRG), he/she will notify the Federal Supply Service (FSS) of the need to activate GSA's Emergency Coordination Center (ECC) in support of the disaster.

c. FSS will activate regional ECCs as required by the situation.

2. Regional-Level Response Support Structure

a. The GSA Regional Emergency Coordinator will provide overall leadership of the logistics support operations at the disaster scene.

b. The Federal Disaster Services Coordinator (FDSC) shall report to the FCO and receive and coordinate all logistics requirements of the Federal agencies engaged in disaster operations.

c. The Defense Logistics Agency's (DLA) Emergency Operations Centers (EOC) will be activated as directed by the Continental US (CONUS) Army Commander in support of disaster relief operations.

B. Notification

1. Upon implementation of the National Plan, the GSA Regional Administrator responsible for the designated area will be provided the declaration number by whatever means possible. This notification may be by telephone or written message.

2. A copy of the declaration will be forwarded to Headquarters, GSA and marked for the attention of the GSA Emergency Coordinator. See Appendix A for telephone numbers and message routing identifiers.

3. If communications prevent FEMA from contacting GSA within the disaster region, the GSA Emergency Coordinator in Washington, DC, will be contacted. Backup GSA regions will be in the order listed in Appendix B to this annex. The backup region will deploy its team to the disaster site and control the logistics response operations until the affected region can assume control.

4. The GSA Regional Emergency Coordinator will dispatch the GSA logistics team to the disaster location and assume control of logistic operations supporting the Federal response. Coordination at the national level will support fully operations at the disaster scene.

C. Initial Actions

1. Upon notification that the National Plan is in effect, the GSA Emergency Coordinator will report to the CDRG.

2. GSA will:

(1) Activate central office and regional ECCs as required, and

(2) Provide logistical support of Federal agencies engaged in the disaster response as requirements are identified.

3. The GSA Regional Emergency Coordinator will:

(1) Dispatch a GSA team to the disaster scene and appoint the FDSC,

(2) Acquire space for the Disaster Field Office (DFO), if applicable,

(3) Provide communications to the DFO in coordination with ESF #2,

(4) Provide office furniture, equipment, and supplies to equip the DFO,

(5) Determine the availability of and provide supplies stocked in distribution facilities, national defense stockpiles, customer supply centers when immediately available, and

(6) Provide contract award services to augment Federal security activities.

V. Responsibilities

A. Primary Agency: General Services Administration

1. Through the GSA Regional Emergency Coordinator, take full control of the logistical operations during the disaster relief effort.

2. Locate, procure, and issue to consumers Federal and commercial resources for use in emergency operations as are necessary to support the Federal emergency response or to promote public safety.

3. Coordinate the loan of excess Federal personal property and its return to the holding agency after use, the donation of Federal surplus personal property, the provision of preliminary logistic-related damage assessments to State governments for the States' use and ultimate disposition, and other services as needed and requested to support disaster operations.

4. Locate and coordinate the use of available space for disaster coordination and care activities.

5. Deploy the GSA disaster support team to the initial disaster command site within 2 hours following receipt of the disaster declaration.

6. Coordinate the procurement and delivery of emergency consumable supplies.

7. Determine the availability of and provide consumable supplies stocked in distribution facilities and customer supply centers when immediately available.

8. Procure needed stocks from vendors or suppliers when GSA items are not readily available.

B. Support Agencies

1. Department of Defense

a. Provide available space, furniture, equipment, supplies, transportation, and personnel, as may be required for emergency logistical support operations.

b. Provide back-up support for those consumable supplies available through the Defense Logistics Agency, and

provide available supplemental personnel and equipment needed for distribution of those supplies.

c. Provide available staging areas outside the disaster area as requested.

2. Department of Energy

a. Assess the status of energy sources for facilities and equipment in the disaster area.

b. Provide available Departmental resources for emergency operations.

c. Assist in locating and obtaining petroleum products and lubricants, electric power, gas supplies, and solid fuel supplies.

3. Department of Justice

a. Provide technical support, personnel, and equipment to assist in identification of deceased victims.

b. Provide technical advice and attorneys.

c. Provide professional and technical personnel to assist State and local governments in the legal aspects of identification of the dead.

4. Department of Transportation

Coordinate on the location and scheduling of motor carriers required for the movement of emergency supplies into and within the designated area.

5. Health and Human Services

Assist in locating and obtaining alternate sources of medical personnel, health services, facilities, and supplies and act as agent for distribution of those resources.

6. Federal Emergency Management Agency

Act as the agent for, determine eligibility of, and service all State and local governments, charitable organizations, and individuals receiving Federal logistical support.

7. National Communications System

Establish emergency communications within the disaster area to ensure passage of requirements to the logistic agency having support responsibility.

8. Office of Personnel Management

Identify, locate and, if necessary, recruit personnel needed to support disaster operations, after appropriate coordination with GSA.

9. Veterans Administration

Assist in providing medical supplies and other medical services.

VI. Resources Requirements

A. The method of acquisition of supplies will be determined by GSA. The logistic community will satisfy its resource requirements from within. The nationwide capabilities of the logistic community will be controlled through the logistic operation centers, and resources will be committed as required. If specialized or unskilled workers are unavailable within the logistic community, the FDSC will notify the FCO and OPM of the type of assistance required.

B. Materials and supplies located in warehouses controlled by the logistic community are the primary resource in support of the Federal response. These resources are supplemented by five caches maintained by the USDA Forest Service and the DOI. The excess property warehouses of GSA, DOD, and the States provide additional resources. Support which cannot be supplied from these resources will be provided by direct procurement.

C. The following procedures will be used to provide, control and account for goods and services.

1. Upon notification by FEMA of space requirements, the GSA Regional Emergency Coordinator will determine, through the Regional Space Management Division, the availability of suitable space in federally owned or leased buildings.

2. When space in federally owned or existing leased buildings is not available, the FEMA RD or FCO, when in place, will be notified by the GSA Regional Emergency Coordinator who then will arrange with the Regional Space Management Division to assist the FEMA RD or FCO, when in place, in locating suitable space elsewhere.

3. Communications capability will be provided by the method and quantity deemed appropriate by the Regional Emergency Communications Coordinator (RECC) in conformance with the National Plan for Communications support in Emergencies and Major Disasters. (See ESF #2, Communications.)

4. The GSA Regional Emergency Coordinator, in coordination with FEMA, will determine the number and types of vehicles required to support a particular disaster relief effort. The Coordinator will notify the Regional Director, Federal Supply Service Bureau orally, with a memorandum to follow.

5. Motor equipment shall be provided from the following sources in the order listed below:

(1) Equipment owned by Federal agencies that may be reassigned to the Federal disaster operation,

(2) Federal supply schedule contractors, and

(3) Other commercial sources.

6. GSA personnel will determine the appropriateness of the types of vehicles and equipment provided to satisfy the identified requirement.

7. All required office furniture and equipment of functional quality will be provided from GSA inventories or commercial sources, to equip promptly all emergency facilities. The method of acquisition will be determined by GSA.

8. Office supplies and other expendables will be provided from GSA stores, GSA customer supply centers, GSA stock, other Government sources, or commercial sources. If from commercial sources, Blanket Purchasing Agreements will be negotiated with commercial vendors in the local area whenever possible to expedite purchases.

9. Procurement support for the full range of logistical requirements of the agencies participating in the disaster response effort will be provided using GSA, DLA, and other agencies' contracting resources. All procurement will be in accordance with existing Federal procurement regulations.

10. GSA will make necessary arrangements for "rapid turn-around" printing, photographic reproduction, layouts, blueprints, forms and formats, and other graphics as required.

11. GSA will make available technical advisors in the areas of procurement, storage, transportation, records preservation and/or restoration, as well as engineering advisory services in connection with damage surveys, appraisals, and building demolition or repair, etc.

12. In addition to these enumerated services, GSA also shall provide other logistic services including assisting in the restoration of interrupted public utilities services of Federal agencies and State and local governments; the loan of excess Federal personal property and its return to the holding agency after use; donation of Federal surplus personal property; preliminary damage assessments to State governments for the State's use and ultimate disposition; and other services as needed and requested by the FCO.

VII. References

A. The Federal Property and Administrative Services Act of 1949.

B. The Defense Production Act of 1950.

C. GSA/FEMA Memorandum of Understanding, GSA Orders, and DOD regulations governing DOD civil assistance.

APPENDIX A TO EMERGENCY SUPPORT FUNCTION #7—General Services Administration Disaster Notification Phone Numbers

Region	Regional administrator	Message routing identifier code	Director administrative services division (Reg. Emer. Coordinator)
NCR	7th & D Sts., SW., Washington, DC 20407	R.I.	
	FTS 223-2601		FTS 472-1650
	617/223-2601		202/472-1650
1	John W. McCormack Post Office & Court House, Boston, MA 02107	RUEVFYU	
	FTS 223-2601		FTS 223-5212
	617/223-2601		617/223-5212
2	26 Federal Plaza, New York, NY 10007	RUEVDAE	
	FTS 264-2600		FTS 264-8262
	212/264-2600		212/264-8262
3	9th & Market Streets, Philadelphia, PA 19107	RUEVDDG	
	FTS 597-1237		FTS 597-7926
	215/597-1237		215/597-7926
4	75 Spring St., SW., Atlanta, GA 30303	REUVDAA	
	FTS 242-3110		FTS 242-3240
	404/221-3111		404/221-3240
5	230 S. Dearborn St., Chicago, IL 60604	RUCHLAC	
	FTS 353-5395		FTS 353-8421
	312/353-5395		312/353-8421
6	1500 E. Bannister Rd., Kansas City, MO 64131	RUCHLAA	
	FTS 926-7201		FTS 926-7581
	816/926-7201		816/926-7581
7	819 Taylor St., Ft. Worth, TX 76102	RUCHMCI-Ft. Worth RUCHLAE-Dallas	
	FTS 334-2321		FTS 334-2350
	817/334-2321		817/334-2350
8	Denver Fed. Ctr., Bldg. 41, Denver, CO 80225	RUWLRDK	
	FTS		FTS 234-2231
	303/234-4171		303/234-2231
9	525 Market Street, San Francisco, CA 94105	RUWLRBQ-Market St. RUWLRAB-Golden Gate	
	FTS 556-3221		FTS 556-4720
	415/556-3221		415/556-4720
10	GSA Center, Auburn, WA 98002	RUWLR8D	
	FTS 396-7000		FTS 396-7128
	206/931-7000		206/931-7128
11	GSA Central Office	RUEVDEE	GSA Emergency Coordinator.
	FTS 535-7012		
	202/535-7012		

APPENDIX B TO EMERGENCY SUPPORT FUNCTION #7.—GSA CATASTROPHIC EARTHQUAKE RESPONSE BACKUP REGIONS

If earthquake occurs in region	GSA backup support regions are—
1	2, 3, 5
2	1, 3, 5
3	2, 4, 5
4	3, 7, 5
5	3, 4, 6
6	5, 7, 8
7	4, 6, 8
8	9, 10, 7
9	10, 8, 7
10	9, 8, 7

Note.—Order of GSA backup support regions is subject to change.

HEALTH AND MEDICAL SERVICES ANNEX—EMERGENCY SUPPORT FUNCTION #8

I. Introduction

A. Purpose

This annex outlines the coordinated Federal actions that will be taken to support State and local operations in response to health and medical services requirements in the event of a catastrophic earthquake.

B. Scope

This ESF involves public health activities and medical care during the immediate response phase of a catastrophic earthquake. The ESF includes triage, evacuation, and medical treatment of victims within the disaster area. It also involves the application of medical and surgical procedures by trained professional and technical personnel to individuals injured as a result of the event. Treatment may include hospitalization and out-patient care. The ESF also involves the obtainment and provision to Federal, State, and local governments and volunteer organizations of supplemental nursing and medical supplies, including but not limited to those stocks surplus to the needs of the Federal Government. Additionally, the ESF involves Federal actions to support State and local governmental response to public health threats (water, sanitation, human and animal remains, disease control, and environmental pollution).

II. Policies

Policy guidance will be provided in accordance with:

(1) Directives outlined in the National Security Decision Directive (NSDD)–47, dated July 22, 1982; and

(2) The National Plan of action on Emergency Preparedness Mobilization, dated March 31, 1984 (classified).

III. Situation

A. Disaster Condition

A major catastrophic earthquake would necessitate both public health and medical services assistance. Casualty estimates for a California earthquake project from 12,000 to more than 200,000 persons requiring hospitalization, depending upon the precise location and time of the earthquake. Such a large number of patients would be much greater than the State medical system could handle adequately. Such an event could also pose certain public health threats, mental health effects, and effects on food and water supplies. However, infectious diseases, radiation, and chemical injuries will have limited adverse effects on public health.

The current practice for providing emergency health services may not be practical because of the large number of patients requiring care within a very short period. Current practice involves driving victims from the disaster site to the nearest available medical treatment facilities or hospitals. As the nearby hospitals become filled with disaster victims, additional victims are moved farther to other accessible hospitals. This response procedure might be described as an expanding circle of medical treatment facilities, with the disaster site at the center of the circle.

Local resources may be inadequate to clear casualties from the scene or treat them in local hospitals. Additional mobilized Federal resources must be developed to triage and stabilize casualties at the disaster site and then transport them, preferably by air, to distant metropolitan areas with large concentrations of available hospital beds.

B. Planning Assumptions

1. State and local medical care resources will be overwhelmed. A national response will be required to assist in patient triage, stabilization, and evacuation and in provision of definitive in-patient hospital care.

2. In an earthquake, direct damage to chemical and industrial plants and rupture of underground storage tanks and pipelines could cause the release of toxic chemicals into the environment.

3. Secondary hazards such as fires could also generate toxic chemicals. The

resulting contamination might include a broad range of chemicals including pesticides, organic solvents, and heavy metals.

4. Broken sewer lines could contaminate water supplies and broken water lines could permit contamination of water supply systems by back siphonage.

5. Contamination of foodstuffs and crops could occur.

6. Radiation could be released by damaged nuclear power plants.

7. Microbial contamination of water, caused by earthquake damage, is a remote possibility.

8. Victims could be exposed to these hazards by inhalation, ingestion, or absorption.

9. Potential health effects are highly variable, depending upon the specific chemicals, radioactive materials, and other contaminants released into the environment.

IV. Concept of Operations

A. Organization

1. Overall System Coordination

The National Disaster Medical Operating Center (NDMOC) will be established at the Public Health Service (PHS) Headquarters in Rockville, Maryland. Representatives of the PHS, FEMA, DOD, VA and other appropriate Federal departments and agencies, ARC, and other national and professional organizations will be represented in the operations center. The purpose of the NDMOC will be to coordinate Federal resources in response to health and medical care needs in the disaster area. Communications will be maintained with FEMA headquarters, the State Emergency Medical Coordinator, the Federal Coordinating Officer (FCO) at the disaster site, the Armed Services Medical Regulating Office (ASMRO), and local NDMS Coordinating Centers.

The control function associated with the movement of casualties throughout the Nation to available hospital beds will be managed by the ASMRO at DOD. This office will receive reports from NDMS Coordinating Centers on the availability of hospital beds. It then will coordinate the movement of military and/or civil aircraft in the evacuation of patients from the disaster area to other locations for further care. The NDMOC will serve as an alternate to ASMRO.

2. Intra-State Operations.

Each affected State will appoint a State Emergency Medical Care Coordinator who will collaborate with the Federal Emergency Medical Coordinator and direct the following six major functions:

(1) Assessment of number of casualties,

(2) Initial care and stabilization,

(3) Coordination of incoming medical assistance,

(4) Intraregional evacuation and sorting of patients,

(5) Preparation of casualties for evacuation from the region, and

(6) Transportation of patients to aeromedical evacuation site(s).

3. Local NDMS Coordinating Centers

A Federal hospital and/or specified civilian hospital in each designated metropolitan area of the United States will function as a "coordinating center." The center will coordinate the arrival of patients from the disaster area and mobilize local emergency medical resources, including transportation, communications, and facilities. In conjunction with local facilities, organizations, and governmental jurisdictions, the coordinating center will establish policies and procedures for receiving, sorting, and transporting medical evacuees to facilities in the designated metropolitan area.

4. NDMS Participating Hospitals

Individual patients will be sent to participating hospitals for definitive inpatient care.

B. Notification Procedures

FEMA will notify DHHS of the decision to implement the National Plan. DHHS then will notify PHS. PHS will notify the support agencies.

C. Initial Action

The PHS Emergency Coordinator and appointed officials will:

(1) Attempt to contact PHS Regional Health Administrators (RHA) in the affected area to obtain an initial evaluation, and

(2) Determine needs for health and medical resources.

V. Responsibilities

A. Primary Agency: Department of Health and Human Services

1. The Department of Health and Human Services (DHHS), Public Health Service (PHS) will be responsible for the overall coordination of Federal operations to assist State and local efforts to provide health and emergency medical services.

2. Federal response for medical services will be provided through activation of the National Disaster Medical System (NDMS). As part of the NDMS, DHHS will carry out its responsibilities outlined below in cooperation with the Department of Defense (DOD), the Department of Transportation (DOT), the Federal Emergency Management Agency (FEMA), the Veterans Administration (VA), and the American Red Cross (ARC).

a. Assess the medical situation within the disaster area through consultation with appropriate state health, medical, and emergency medical services authorities.

b. Activate the National Disaster Medical System (NDMS) at the request of the FEMA or upon request of the State Health Officer. Activation of the NDMS includes activation of the National Disaster Medical Operations Center (NDMOC) and NDMOC communications assets. Activation of the NDMS also will include:

(1) Alerting NDMS Patient Reception Areas and obtaining hospital bed availability reports from HHS, DOD, and the VA.

(2) Alerting NDMS Disaster Medical Assistance Team (DMAT) sponsors and, if necessary, arranging for activation and deployment of DMAT for casualty clearing and staging mission assignments.

(3) Arranging for drop shipment of DMAT medical supplies and equipment to the disaster area.

(4) Arranging for logistic support of DMAT (food and shelter), if required.

(5) Arranging for evacuation of seriously injured disaster victims to appropriate NDMS patient reception areas.

(6) Arranging for hospitalization of seriously injured victims in NDMS participating hospitals.

(7) Arranging for reimbursement of NDSM hospitals and attending physicians.

(8) Arranging for procurement of additional medical equipment and supplies (including pharmaceuticals) for transfer to State and local medical elements for their use.

(9) Coordinating Public Health Service (PHS) activities to address public health and worker safety issues and environmental health (food and water, sanitation, disease control) issues, and to provide advice to State and local health officials on health information to be provided to the general public.

(10) Coordinating provision of crisis counseling services for victims and disaster service workers with FEMA, and providing mental health training materials for disaster workers.

c. Provide casualty information and damage information relating to health and medical services and facilities to the Damage Information ESF on a regular basis.

B. Supporting Agencies

1. Department of Defense

a. Alert NDMS Patient Reception Areas (VA and HHS) and obtain hospital bed availability reports through the Armed Services Medical Regulating Office (ASMRO).

b. In coordination with DOT, evacuate patients, as required, from disaster areas to NDMS Patient Reception Areas.

c. In coordination with DOT, transport DMAT supplies and equipment into the disaster area.

d. Provide logistics support to the DMAT.

e. Provide active duty military medical units for casualty clearing and/or aeromedical evacuation mission assignments.

f. Coordinate patient reception in NDMS areas where military hospitals serve as local NDMS Coordinating Centers.

g. Provide military medical personnel to assist the PHS in activities for protection of public health (food and water, sanitation, disease control, and environmental health).

h. Provide available DOD medical supplies for distribution to mass care centers and first aid stations being operated for disaster victims.

i. Provide available emergency medical services (EMS) to disaster victims in support of State and local governmental EMS within the disaster area. Such services may include triage, medical treatment, and the utilization of surviving Federal medical facilities to the extent of their capabilities.

j. Provide technical assistance, equipment, and supplies as required in support of HHS/PHS to accomplish temporary restoration of damaged public utilities affecting public health.

2. Department of Transportation

a. Assist in identifying and arranging for utilization of all types of transportation, such as air, rail, and motor vehicle.

b. Arrange for movement of selected ships as may be required for immediate accessibility.

c. Provide supplemental medical assistance from DOT resources subject to DOT statutory requirements.

3. American Red Cross

a. Provide blood and blood products, including donor systems, through regional blood centers.

b. Recruit volunteer health services personnel to supplement medical and nursing resources in various settings and provide first aid support to mass care shelters and aid stations.

c. Provide health services personnel to care for families of the dead and injured.

d. Provide health services and other personnel to assist with the evacuation of victims, nursing homes, and hospitals.

e. Provide financial assistance for required medical and nursing care for disaster patients unable to meet this need.

f. Acquaint families with available health resources and services and make appropriate referrals.

g. Establish and staff temporary infirmaries to supplement local health facilities when the need is agreed upon and when requested by appropriate authorities.

h. Furnish additional emergency medical and hospital supplies, services, and personnel in accordance with existing regulations and agreements.

i. Recruit personnel to supplement medical and nursing staffs in epidemics and assist public health officials with mass immunization programs.

j. At the request of appropriate public health officials, provide blood products used in situations involving actual or potential hepatitis outbreaks.

k. Provide first aid, crisis counseling support, and medicine for minor illnesses and injuries to disaster victims. Utilize available volunteer personnel to staff and operate emergency aid stations at ARC-operated shelters, ARC disaster field offices, selected disaster clean-up areas, and any other sites as may be deemed necessary within the disaster area.

l. Distribute first aid and nursing-type medical supplies for the treatment of minor injuries and illnesses.

m. Coordinate the health and medical services efforts of other volunteer organizations.

4. Federal Emergency Management Agency

a. Provide overall coordination of Federal disaster planning and response operations.

b. Ensure that Federal response plans and operations support State plans and operations.

5. U.S. Army Corps of Engineers

Provide qualified engineers and individuals in related disciplines to evaluate damage to public utilities affecting public health.

6. Veterans Administration

a. Coordinate patient reception in NDMS areas where VA medical centers serve as local NMDS Coordinating Centers.

b. Provide medical assistance from VA medical centers to supplement DOD emergency medical care activities, including onsite triage teams' medical care activities, emergency outpatient care, and short-term hospitalization of casualties pending transfer to community health care facilities.

c. Provide available VA medical supplies for distribution to emergency mass care centers and first aid stations being operated for disaster victims.

d. Provide available medical supplies and equipment in support of the DMAT activated and deployed as part of the NDMS.

VI. Resource Requirements

A. Support to State and Local Government

1. Supplies and Equipment

a. Locally available sources of essential medical supplies and equipment will be identified by each NDMS Coordinating Center.

b. Transportation and distribution of medical supplies and equipment from manufacturers and/or distributors to the disaster area will be coordinated with the transportation ESF.

c. Specific procedures will be established with or on behalf of the affected area's normal blood service providers for the supply and shipment of blood.

2. Facilities

Seventy-one metropolitan areas have been designated as NDMS patient reception areas. Hospitals within these metropolitan areas will volunteer to make a portion of their acute care beds available to the NDMS. Participating hospitals, to the maximum extent, will have the following essential capabilities:

(1) Diagnostic x-ray services,
(2) Laboratory services,
(3) Surgical facilities,
(4) Emergency department,
(5) Postoperative recovery room,
(6) Intensive care unit, and
(7) Blood bank.

3. Personnel

Systematic plans will be developed to establish Disaster Medical Assistance Teams (DMATs) which could be moved expeditiously into a disaster area. Guidance has been developed for identifying community organizations which could sponsor such teams, the appropriate composition of teams, and essential health and medical assistance team readiness and operational characteristics.

VII. Terms and Definitions

A. *ASMRO.* Armed Services Medical Regulating Office, an Air Force office at

Scott AFB that regulates the evacuation of casualties worldwide.

B. *NDMS.* National Disaster Medical System.

C. *NDMOC.* National Disaster Medical Operations Center, the NDMS control center operating in Washington, DC, or alternate sites as required.

D. *Clearing.* The operation of receiving, sorting, stabilizing, and holding casualties until transport to definitive care becomes available.

E. *Staging.* The operation of receiving, sorting, holding, and redispatching casualties while in transport status.

F. *Triage.* Sorting of casualties into priority groups for treatment or transport.

VIII. References

1. National Disaster Medical System Design, July 13, 1983.

2. "Potential Public Health Threats Following Major Catastrophes," June 9, 1983, CDC.

3. "Range of Public Health Considerations in Major Emergencies," June 9, 1983.

URBAN SEARCH AND RESCUE ANNEX—EMERGENCY SUPPORT FUNCTION #9

I. Introduction

A. Purpose

The purpose of this function is to provide for the application of Federal response capabilities and resources for urban search and rescue (USR) assistance necessary after a catastrophic earthquake.

B. Scope

This ESF involves coordination of Federal assets to assist State and local officials in operations to rescue urban disaster victims if requirements exceed state and local capabilities. Specific responsibilities associated with this ESF are:

(1) Assisting in identifying and providing Federal resources necessary for USR;

(2) Coordinating use of Federal organizations to obtain, through contract or purchase, equipment and supplies;

(3) Providing specialized equipment and operators owned by Federal organizations;

(4) Coordinating transportation of USR technicians, equipment, and supplies; and

(5) Coordinating use of Federal aircraft for USR.

II. Policies

A. Federal USR personnel and facilities will be provided to assist State and local agencies with their USR responsibilities.

B. The Federal Regional search and rescue (SAR) Coordinators will encourage the continued development of State and local USR facilities as appropriate.

C. After Federal declaration, coordination of the Federal USR response will be under the leadership of the US Army. The Federal Regional SAR Coordinators will provide assistance to the US Army with the US Air Force as the Inland SAR Coordinator, the US Coast Guard as the Maritime SAR Coordinator, and the Alaskan Air Command as the Alaskan Coordinator.

D. The Federal SAR organization under the National Search and Rescue Plan and its facilities will be used to respond to a catastrophic earthquake.

E. Federal USR organizations will be coordinated by a single Federal agency to ensure greater protection of life and property, and greater efficiency and economy.

F. The Federal USR coordinating organization, under the guidance of the Federal Regional SAR Coordinators, should be used in meeting needs resulting from a catastrophic earthquake.

III. Situation

A. Disaster Condition

A catastrophic earthquake will cause emergency conditions that can vary widely in scope, urgency, and degree of devastation. USR personnel and facilities focus on aiding distressed persons. Several thousand people could be in life-threatening situations, located in urban or remote areas, requiring various search techniques to locate and then extricate them. Large numbers of personnel are needed, particularly in urban areas. State and local USR organizations will be overwhelmed. USR personnel will encounter extensive damage to buildings, roadways, public works, communications, and power systems. Access to and from damaged areas will be severely restricted. Secondary events and effects such as fires, tsunami, landslides, flooding, and release of hazardous materials will compound the problem. In some areas, access may be limited to the use of aviation and maritime support. Aftershocks and secondary events may be threatening to the survivors and USR personnel. In a catastrophic earthquake, Federal resources must not be reserved until State and local resources are exhausted. Federal USR resources must be applied as soon as State and local resources have been committed.

B. Planning Assumptions

1. There will be an immediate need for Federal USR assistance to State and local authorities. Depending on availability of resources, Federal USR assistance could be available through the Federal regional SAR Coordinators as soon as one hour after confirmation of a catastrophic earthquake and implementation of the National Plan.

2. State and local USR personnel and facilities, with Federal assistance, will respond on the first day, the most critical time for lifesaving.

3. Dedicated USR forces at the Federal, State, and local level will provide the nucleus of operations and communications around which the larger organizational structure will develop.

4. Federal, State, and local officials will be dependent upon a rapid assessment of the area to determine size and focus of the USR organization and facilities.

5. Federal, State, and local USR organizations will use their organic communications assets to coordinate the most efficient use of USR personnel and facilities.

6. Medical personnel and facilities at the regional, State, and local levels must work with the USR organization to assure proper care for those who are rescued.

IV. Concept of Operations

A. General

The Department of Defense, as primary agency, will chair the USR ESF from the Army Operations Center (AOC) at the Pentagon, until USR operations are completed. With the assistance of the Federal Regional SAR Coordinators, DOD will establish a USR Mission Coordinator (SMC) to coordinate the Federal USR response at the regional level.

B. Organization

If a Presidential declaration is not immediately forthcoming upon occurrence of a catastrophic earthquake, the Federal Regional SAR Coordinators will manage the Federal USR response according to the National Search and Rescue Plan. Upon declaration and implementation of the National Plan for Federal Response to a Catastrophic Earthquake, the USR ESF will be established to coordinate the national level USR response. The USR ESF will be located at the Army Operations Center (AOC), Room BF741, Pentagon.

The ESF will include a representative from each of the other Federal agencies having support responsibilities for the

USR ESF. The following agencies and officials will make up the ESF.

Agency	Title
DOD	Chief, Military Support Division.
DOT	AMVER Officer, US Coast Guard.
DOI	Park Ranger, Ranger Activities.
USDA	TBD.
COE	Emergency Management Coordinator.
DO	TBD.
FEMA	SL-EM-SS-DC.
HHS	TBD.
GSA	TBD.
VA	TBD.

B. Notification Procedure

FEMA will notify DOD of the decision to implement the National Plan. DOD then will notify the Department of the Army. Other ESF members will be notified by their parent agencies. Upon notification, all USR ESF members will report to the AOC.

C. Initial Actions

Upon notification, the USR ESF will convene in the AOC. Agencies will be prepared to have representatives available on a 24-hour basis for the duration of the initial response phase.

1. DOD, as the primary agency, will:

(1) Establish, maintain, and coordinate a continuing USR effort;

(2) Inform support agencies of resource requirements; and

(3) Maintain coordination between the national and regional level of the ESF.

2. Support agency representatives will:

(1) Ensure that member agencies are aware of the ESF's requirements;

(2) Coordinate receipt and application of resources made available to the ESF by member agencies;

(3) Notify their headquarters and regional counterparts of changes to response requirements; and

(4) Provide clerical support to the ESF.

3. The Emergency Operations Center (EOC) of the affected Continental US Army (CONUSA) will control the USR organization within the area defined in the Federal disaster declaration.

4. The Search and Rescue Mission Coordinator will:

(1) Serve as the regional focal point in flow of USR-related information, control the regional USR effort, and maintain coordination between the regional and national levels of the ESF;

(2) Inform support agencies of resource requirements;

(3) Coordinate response efforts with State and local authorities;

(4) Work out of the Continental US Army Emergency Operations Center;

(5) Coordinate with ESF #8, Health and Medical Services, to ensure the availability of personnel and facilities to care for injured survivors located during the ESF's activities and to identify and process handling of the deceased;

(6) Coordinate with ESF #2, Communications, to ensure the availability of communications links between responding agencies and USR staff in the field; and

(7) Coordinate with ESF #1, Transportation, to ensure that USR staff and equipment can readily reach areas of greatest concern and to provide for movement of injured survivors.

5. Upon becoming operational, the USR ESF will:

(1) Review the status of the State's response capabilities to determine if the State is handling the immediate lifesaving and lifeprotecting requirements;

(2) Determine if the State has requested Federal assistance;

(3) Determine what Federal assistance has been applied through the Federal Regional SAR Coordinators;

(4) Support State and local efforts to evacuate people from hazardous areas and situations;

(5) Assist State and local efforts to locate and evacuate people isolated by road closures or other secondary effects and rescue trapped persons when resource priorities permit;

(6) Manage ground search to ensure optimum use of available resources; and

(7) Supply aircraft, ships, specialized rescue teams and equipment to supplement State and local efforts to search for and rescue persons in distress on land or at sea.

V. Responsibilities

A. Primary Agency: Department of Defense

1. Exercise overall responsibility for organizing and coordinating Federal USR operations in support of State and local officials.

2. Designate a USR Mission Coordinator to serve on the staff of the Federal Regional SAR Coordinator and to assist in managing Federal response.

3. Provide personnel and facilities required to coordinate, plan, and manage Federal responsibilities.

4. Develop plans to use Federal troops for USR operations if required.

B. Support Agencies

1. Department of Agriculture

Provide available aircraft, off-road vehicles, equipment, operators, personnel, and material.

2. Department of the Interior

a. Provide overall coordination and management of national and international dog teams in USR operations.

b. Conduct USR operations on lands and waters administered by the DOI; assist in operations in adjacent jurisdictions.

3. Department of Labor

Provide specialized equipment and operators to locate and rescue trapped victims.

4. Department of Transportation

a. Provide personnel and equipment to conduct traffic control, flight service, and aeronautical communications in support of USR activities.

b. Coordinate designation of restricted air space over the disaster areas to facilitate aerial USR operations.

c. Execute water USR operations in accordance with standing directives and authorities.

5. Health and Human Services

Assist in planning, managing, and coordinating immediate medical treatment for rescued disaster victims and temporary disposition of the deceased.

6. Federal Emergency Management Agency

a. Assist as requested in coordinating, planning, and managing Federal USR actions.

b. Coordinate with appropriate Federal, State, and local organizations for procurement and movement of supplies.

7. General Services Administration

Procure supplies, equipment, and services necessary for conduct of USR operations.

8. Veterans Administration

Assist in planning, managing, and coordinating immediate medical treatment for rescued disaster victims and temporary disposition of the deceased.

VI. Resource Requirements

A. USR ESF Operational Resources

The USR ESF requires office space in the AOC for up to 15 people and access to military-type communications assets, telephones, telefax, and teletype equipment.

B. Functional-Area Resources

The USR organization for regional coordination of the Federal response will require working space and communications equipment within the CONUSA EOC.

VII. Terms and Definitions

A. Federal Regional SAR Coordinators are as follows:
(1) Inland SAR Coordinator–US Air Force,
(2) Maritime SAR Coordinator–US Coast Guard, and
(3) Alaskan SAR Coordinator—Alaskan Air Command.
B. DOD Executive Agent for Declared Major Disaster Response is the US Army.

VIII. References

A. Aerospace Rescue and Recovery Service Operation Plan 9506, 1 April 1979.
B. Army Regulation 500–2, Search and Rescue (SAR) Operations, 15 Jan 1980.
C. Army Regulation 500–60, Disaster Relief, 1 August 1981.
D. Department of Defense Directive 3025.1, Use of Military Resources During Peacetime Civil Emergencies Within the United States, Its Territories, and Possessions, 23 May 1980.
E. National Search and Rescue Manual—1973.
F. National Search and Rescue Plan—1969.

HAZARDOUS MATERIALS ANNEX—EMERGENCY SUPPORT FUNCTION #10

I. Introduction

A. Purpose

The purpose of this annex is to provide guidelines for Federal support to State and local governments in response to a discharge of oil or release of hazardous substance (chemical and toxic) resulting from a significant natural catastrophe. This annex has adopted the response framework set forth in the National Oil and Hazardous Substances Contingency Plan (NCP) (40 CFR 300).

B. Scope

This annex is applicable to all Federal departments and agencies with assets to support State and local response to oil discharges and hazardous substance releases, including the thirteen Federal agencies represented on the National Response Team (NRT) as designated by the NCP. This annex provides for coordinated response to a discharge of oil or hazardous substance release. It establishes the division and specification of responsibilities among Federal agencies, and the national response organization that may be brought to bear in response actions, including description of the organizations, response personnel, and resources that are available. Radiological considerations are addressed in the Federal Radiological Emergency Response Plan (FRERP), which is not intended to be altered by this National Plan.

II. Policies

A. Specific national-level policy is contained in the NCP. Supplemental information is contained in the procedures manuals and standard-operating procedures (SOPs) developed by NRT member agencies for carrying out the responsibilities under the NCP and other regulations.

B. Regional-level policy is contained in the Regional Oil and Hazardous Substances Pollution Contingency Plans (RCPs) developed for each standard Federal region.

III. Situation

A. Disaster Condition

A catastrophic earthquake could result in numerous situations in which oil and hazardous substances are released into the environment. Fixed facilities (e.g., chemical plants, tank farms, laboratories, operating hazardous waste sites, etc.) which produce, use, store, or dispose of hazardous materials could be damaged so severely that normal spill control mechanisms become inoperable. Hazardous materials that are transported may be involved in rail accidents, highway collisions, or waterway mishaps. Abandoned hazardous waste sites could be damaged causing further degradation of holding ponds, tanks, and drums.

B. Planning Assumptions

1. States and localities will be overwhelmed by the extent of the response effort required to assess, mitigate, clean up and dispose of hazardous materials released into the environment.

2. Standard communications practices (telecommunication, radio, etc.) will be disrupted.

3. Response personnel, cleanup crews, and response equipment may have difficulty in reaching the site of an oil discharge or hazardous substance release because of the damage sustained by the transportation infrastructure (roads, rails, bridges, etc.).

4. Laboratories responsible for oil and hazardous substances sample analysis may be damaged or destroyed.

5. Additional response/cleanup personnel and response equipment may be needed to supplement existing capabilities.

6. Air transportation may be needed for damage reconnaissance and to transport personnel and equipment to the site of a release.

7. Emergency exemptions may be needed for disposal of contaminated material.

IV. Concept of Operations

A. General

The Federal response role is prescribed in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and carried out primarily by predesignated Federal On-Scene Coordinators (OSCs). The OSCs are provided by the Environmental Protection Agency for inland discharges and releases, by the U.S. Coast Guard for discharges and releases in the coastal zone, and by the Department of Defense for hazardous substance releases from DOD vessels and facilities. The OSCs are supported by a Federal emergency response network that includes the National Response Team (NRT), Regional Response Teams (RRTs), and additional resources such as technical assistance and cleanup services. This network may be activated to carry out the functions of the Hazardous Materials ESF.

As shown in Figure 10–1, the Hazardous Materials ESF has a parallel structure at both the national and regional levels. The chairman of the NRT will report to the Catastrophic Disaster Response Group (CDRG) and will maintain liaison with the RRT Co-chairs. The RRT Co-chairs will coordinate activities with the Federal Coordinating Officer (FCO) and will maintain liaison with the Chairman and Vice Chairman of the NRT.

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NATIONAL CONTINGENCY PLAN CONCEPTS

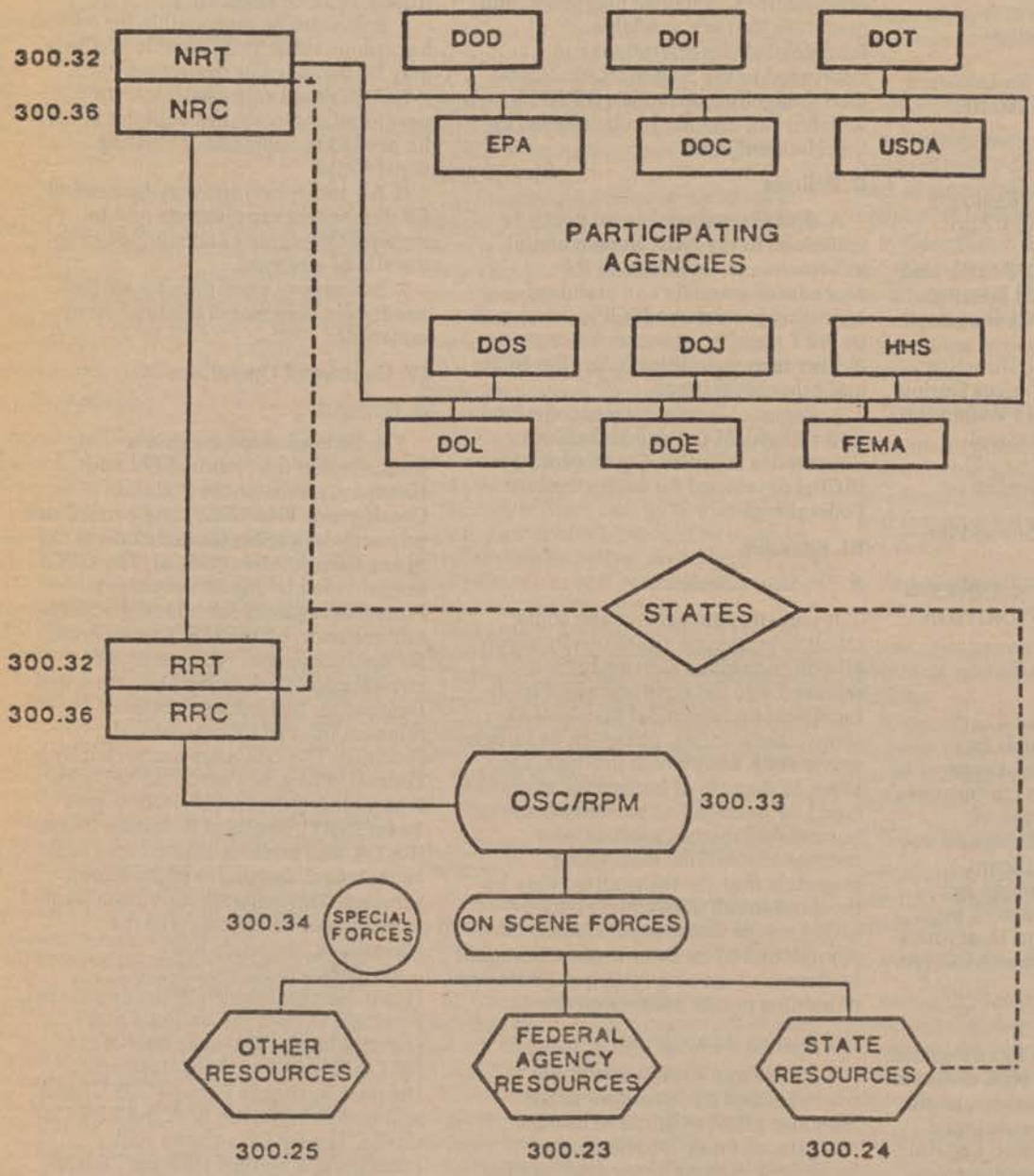


FIGURE 10-1

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B. Organization

1. National-Level Response Support Structure

The NRT is the primary vehicle for coordinating Federal agency activities under the NCP. The NRT carries out national planning and response coordination and is responsible for the Federal emergency response network. The team is composed of the thirteen Federal agencies (listed in Section V of this Annex) with major environmental and public health rasponsibilities. Other Federal agencies also can be called to participate as needed. The NRT is chaired by the Environmental Protection Agency. The U.S. Coast Guard serves as the Vice Chair. When activated for a response action, the NRT is chaired by a representative of the agency providing the OSC.

The Chairman of the NRT will be responsible for maintaining liaison and coordination between the NRT and the CDRG, as well as with the RRT Co-chair.

2. Regional-Level Response Structure

The Federal response role to oil discharges and hazardous substance releases is carried out primarily by predesignated Federal On-Scene Coordinators (OSCs) provided by the Environmental Protection Agency, the U.S. Coast Guard, or the Department of Defense. The OSCs are supported by RRTs (regional counterparts to the NRT). These RRTs are made up of regional representatives of Federal agencies on the NRT, and representatives of each State. The RRTs provide advice and support to the OSCs during a response action. The OSC will be responsible for coordinating with the FCO and maintaining liaison with the Chairman of the NRT.

3. The composition and jurisdiction of the NRT/RRTs is outlined in the NCP.

C. Notification

1. FEMA will notify the NRT Chairman of the decision to implement the National Plan. The Chairman will then notify the affected RRT Co-chairs.

2. Additionally, FEMA will notify the National Response Center (NRC) [800–424–8802 or in Washington, DC 202–426–2675]. These communications procedures are prescribed in the NCP at 40 CFR 300.36.

D. Initial Actions

1. Upon receipt of notification from FEMA, the NRT Chairman will:

a. Notify the affected regional office(s);

b. Activate the NRT response network; and

c. Proceed to FEMA headquarters to participate in the Catastrophic Disaster Response Group (CDRG).

2. The affected RRT Co-chairs will contact the predesignated Federal On-Scene Coordinator (OSC). Initial actions undertaken by the OSC will be consistent with those prescribed in the NCP (at 40 CFR 300.33) including, to the extent practicable:

a. An assessment of the incident;

b. Identification of the nature, amount, and location of released materials;

c. Probable direction and time of travel of the materials;

d. Pathways to human and environmental exposure;

e. Potential impact on human health, welfare, and safety and the environment;

f. Potential impact on natural resources;

g. Priorities for protecting human health, welfare, and the environment; and

h. Appropriate cost documentation.

3. The OSC shall direct response operations (consistent with Subparts E and F of the NCP) and shall coordinate with appropriate Federal, State, local, and private response agencies.

4. The OSC shall coordinate with the Federal Coordinating Officer and maintain liaison with the Chairman of the NRT.

V. Responsibilities

A. Primary Agency

The Environmental Protection Agency (EPA) and the U.S. Coast Guard are the primary agencies responsible for coordinating the Federal response to a release of oil or hazardous substances. The EPA's area of jurisdiction is extended to inland discharges and releases. For spills and releases occurring in the coastal zones, the Coast Guard will coordinate the Federal response (see section V B.10. of this Annex). Coordination of Federal response is normally accomplished at the regional level through predesignated Federal On-Scene Coordinators (OSCs). The responsibilities of the EPA and Coast Guard include:

1. Provision of overall coordination and management of activities related to the detection, identification, containment, cleanup, and disposal of releases of oil and hazardous substances occurring within the particular Agency's area of jurisdiction.

2. Provision of guidelines for emergency workers and the public relative to their reentry into an area affected by hazardous materials.

B. Support Agencies

Each of the Federal agencies listed in this section has duties established by statute, executive order, or Presidential directive which may be relevant to Federal response action following a discharge of oil or a release of a hazardous substance. The primary agencies of this ESF will call upon support and other agencies to carry out these duties in a coordinated manner.

As specified in the NCP (40 CFR 300.23), the following Federal agencies may be called upon by the Federal On-Scene Coordinator during the planning or implementation of a response to provide assistance in their respective areas of expertise as indicated below, consistent with agency capabilities and legal authorities:

1. Department of Agriculture (USDA)

a. Provide expertise in managing agricultural, forest, and wilderness areas.

b. Predict the effects of pollutants on soil and their movements over and through soil.

2. Department of Commerce/National Oceanic and Atmospheric Administration (NOAA)

a. Provide specific expertise on living marine resources.

b. Coordinate scientific support for responses in coastal and marine areas.

c. Predict pollutant movement and dispersion through trajectory modeling.

d. Provide information on meteorological, hydrologic, ice, and oceanographic conditions for marine, coastal, and inland waters.

e. Provide charts and maps for coastal and territorial waters and the Great Lakes.

3. Department of Defense (DOD)

a. Direct response actions for releases of hazardous materials from its vessels and facilities.

b. Provide requested personnel and equipment to other Federal organizations and State and local governments if consistent with military operational requirements.

4. Department of Energy (DOE)

Provide advice in identifying the source and extent of radioactive releases, and in the removal and disposal of radioactive contamination. For radiological incidents, support will be provided in accordance with the FRERP.

5. Department of Health and Human Services (HHS)

a. Provide assistance on all matters related to the assessment of health hazards and to health protection for both response workers and the public.

b. Determine whether illnesses, diseases or complaints made by response workers and the public may be attributable to exposure to a hazardous substance.

c. Establish disease/exposure registries; conduct appropriate testing; and develop, maintain, and provide information on the health effects of toxic substances.

6. Department of the Interior (DOI)

Provide assistance and expertise in fish and wildlife species, geology and hydrology, earthquakes and other natural hazards, minerals and soil, mining activities and the identification of inorganic hazardous substances, biological and general natural resources, and matters affecting Indian lands.

7. Department of Justice (DOJ)

Provide advice on legal questions arising from releases and Federal agency response.

8. Department of Labor/Occupational Safety and Health Administration (OSHA)

Provide advice and assistance regarding hazards to persons involved in removal or control of releases.

9. Department of Transportation/ Research and Special Programs Administration (DOT/RSPA)

Provide expertise on all modes of transporting oil and hazardous substances.

10. Department of Transportation/U.S. Coast Guard (DOT/USCG)

Provide the predesignated Federal On-Scene Coordinators for oil and hazardous substance events occurring within its areas of jurisdiction (coastal zones).

11. Department of State (DOS)

Provide advice and assistance in coordinating an international response when a discharge or release crosses international boundaries

12. Federal Emergency Management Agency (FEMA)

Provide advice and assistance to the OSC on coordinating civil emergency planning and mitigation efforts with other executive agencies, State and local governments, and the private sector. In a major disaster or emergency declared by the President under the Disaster Relief Act of 1974 as envisaged in the plan, the OSC will coordinate any response activities with the Federal Coordinating Officer designated by the President. In addition, the OSC should notify FEMA of situations potentially requiring evacuation, temporary housing, and permanent relocation.

C. Other Agencies

1. Nuclear Regulatory Commission (NRC)

a. Provide resources support in accordance with the Federal Radiological Emergency Response Plan if a release of radiological materials occurs.

b. Monitor the status of nuclear materials under its jurisdiction.

2. Other Federal Agencies

Provide advice and assistance as needed.

VI. Resource Requirements

As identified in the NCP, the following resources are available.

A. Personnel

1. *On-Scene Coordinators (OSCs)* provided by the Environmental Protection Agency, the U.S. Coast Guard, or the Department of Defense. The OSCs provide overall coordination and management of the Federal response effort.

2. *Environmental Response Team (ERT),* established by EPA, the ERT has expertise in biology, chemistry, hydrology, geology, and engineering.

3. *National Strike Force (NSF),* established by the U.S. Coast Guard, the NSF consists of Strike Teams on the Atlantic, Pacific, and Gulf Coasts. The Strike Teams provide communications support and advice and assistance for oil and hazardous substance removal. Special response equipment for offshore oil spills is available.

4. *Scientific Support Coordinators (SSCs),* provided by the National Oceanic and Atmospheric Administration for coastal areas and EPA for inland areas, are responsible for scientific support for operational decisions and for coordinating on-scene scientific activity.

5. *U.S. Coast Guard Public Information Assist Team (PIAT) and EPA Public Affairs Assist Team (PAAT)* are available to the OSCs to meet the demands for public information and participation.

6. *Sampling, Monitoring, Cleanup Personnel* are provided by EPA (through its Technical Assistance Team (TAT), Emergency Response Cleanup Services (ERCS) and additional contracts). The Coast Guard can provide these services for responses in the coastal zone. Scientific Support Coordinators (SSCs) are provided by the EPA in inland regions, and by NOAA in coastal and marine areas.

B. Equipment

Sampling, monitoring, mitigation, and cleanup equipment is available through EPA and the U.S. Coast Guard.

C. Public Health and Worker Safety

OSHA and the Agency for Toxic Substances and Disease Registry provide guidance, expertise, and assistance to ensure the protection of public health and worker safety. In the event of a threat to public health or worker health or public safety from a discharge or release, regional offices should contact the NRC at 404–452–4100.

D. Additional personnel and equipment may be available from other Federal agencies upon request of the On-Scene Coordinator and consistent with each agencies' authorities and resources.

VII. References

A. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, 42 U.S.C. 9605 (more popularly known as Superfund).

B. Clean Water Act (CWA) as amended, 33 U.S.C. 1321.

C. National Oil and Hazardous Substances Pollution Contingency Plan (NCP) 40 CFR 300.

D. Executive Order 12316, Response to Environmental Damage.

VIII. Terms and Definitions

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). More popularly known as "Superfund", CERCLA was passed to provide the needed general authority for Federal and State governments to respond directly to hazardous substances incidents.

National Response Center (NRC). A national communications center for activities related to oil and hazardous substance response actions. The NRC, located at U.S. Coast Guard headquarters in Washington, D.C., receives and relays notices of oil and hazardous substances releases to the appropriate Federal On-Scene Coordinator. The 24-hour number is 800-424–8802, or in Washington, D.C., 202–426–2675.

National Response Team (NRT). The NRT, composed of the thirteen Federal agencies with major environmental and public health responsibilities, is the primary vehicle for coordinating Federal agency activities under the National Oil

and Hazardous Substances Pollution Contingency Plan (NCP). The Team carries out national planning and response coordination and has the lead for the Federal oil and hazardous substance emergency response network. The Environmental Protection Agency serves as the NRT Chair and the U.S. Coast Guard serves as the Vice Chair.

On-Scene Coordinator (OSC). The Federal official predesignated by the Environmental Protection Agency or the U.S. Coast Guard (depending upon the location of the incident) to coordinate and direct Federal responses under the National Contingency Plan, or the Department of Defense (DOD) official designated to coordinate and direct hazardous substance removal actions from DOD vessels and facilities.

Regional Response Teams (RRTs). The RRTs are regional counterparts to the NRT, and are made up of regional representatives of the Federal agencies on the NRT and representatives of each State within the region. The RRTs serve as planning and preparedness bodies before a response, and provide coordination and advice to the Federal On-Scene Coordinator during response actions.

Scientific Support Coordinator (SSC). Under the direction of the On-Scene Coordinator, the SSC provides scientific support for response operational decisions and for coordinating on-scene scientific activity.

FOOD ANNEX—EMERGENCY SUPPORT FUNCTION #11

I. Introduction

A. Purpose

This ESF involves those activities pertaining to the acquisition and distribution of food supplies through other than mass care centers. It includes the obtainment and provision by loan or donation of supplemental food supplies, including but not limited to those stocks surplus to the needs of the Federal Government. Those supplies will be provided to Federal, State, and local governments and volunteer organizations for distribution through emergency individual assistance centers and/or food distribution centers.

B. Scope

This function applies to all Federal agencies processing food stocks that could be made available to victims of a catastrophic earthquake. This function also applies to public and private organizations that wish to donate food for distribution to the disaster victims. Measures will be taken to assure that available foods are fit for human consumption. This will require certification by Federal as well as local public health authorities.

II. Policy

As primary agency for this annex, the Department of Agriculture will fulfill its provisions in accordance with existing policies and procedures of the Food and Nutrition Service for delivery of food and nutrition-related technical assistance.

III. Situation

A. Disaster Condition

A catastrophic earthquake may partially or totally affect food products stored in the geographic area by the United States Department of Agriculture (USDA), Commodity Credit Corporation (CCC). In addition, USDA supplies of foods donated to State and local entities could be impacted. Foods in private sector hands at retail and institutional levels would be impacted in the same ratio as foods in Government stocks. Federal, State, and local authorities will certify whether available foods are fit for human consumption.

B. Planning Assumptions

1. Within the disaster area:

(1) Fifty percent of the consumable CCC stocks may be destroyed; e.g., butter, cheese, and nonfat dry milk.

(2) There may be only a 50 percent accessibility to usable food and food grains; e.g., honey, wheat, corn, oats, rice, etc., in their unprocessed form. These are consumable under dire circumstances.

(3) Seventy-five percent of the water supply may be unusable, requiring juices or potable water supplies to be made available to the affected population.

(4) There will be a near-total disruption of energy sources; e.g., electricity and gas. The only sources available may be oil for generators and propane tanks. All commercial cold storage and freezer facilities could be inoperable.

(5) In the fringes of the geographic areas affected, there may be schools and small institutions with large inventories estimated to be sufficient to feed up to 10,000 people for 3 days and supply their fluid needs for one day; i.e., a minimum of 1800 calories and 3 gallons of liquid per day per person.

(6) Orders to commence distribution of food will be given by radio or written communications, depending on circumstances, within 6 hours of the disaster.

2. Sufficient national food resources exist to meet the needs of the affected populace. These resources include:

(1) Ninety percent of processed fruits, vegetables, and juices (canned, frozen, and dry);

(2) Ninety-five percent of the red meat supply;

(3) Eighty-eight percent of fresh perishable fruits and vegetables;

(4) Ninety-seven percent of poultry and eggs in perishable and processed form;

(5) Ninety-eight percent of grain products;

(6) Ninety-seven percent of storable dairy products; and

(7) Ninety-three percent of perishable dairy products.

3. The Transportation Emergency Support Function will assess the transportation in the impacted area and determine the viability of the infrastructure for the shipment of food.

IV. Concept of Operations

A. Organization

The Food and Nutrition Service (FNS), Food Distribution Division, USDA will be the primary agency. Each support agency will designate a liaison officer to be available on a 24-hour basis at a working location. For members designated as "core" in Figure II–1, this location will be established as the USDA Food Distribution Headquarters. Members designated as "remote" will report to their usual working location and will have a representative on telephone standby, available upon request of the ESF, on a 24-hour basis for the duration of the emergency response period.

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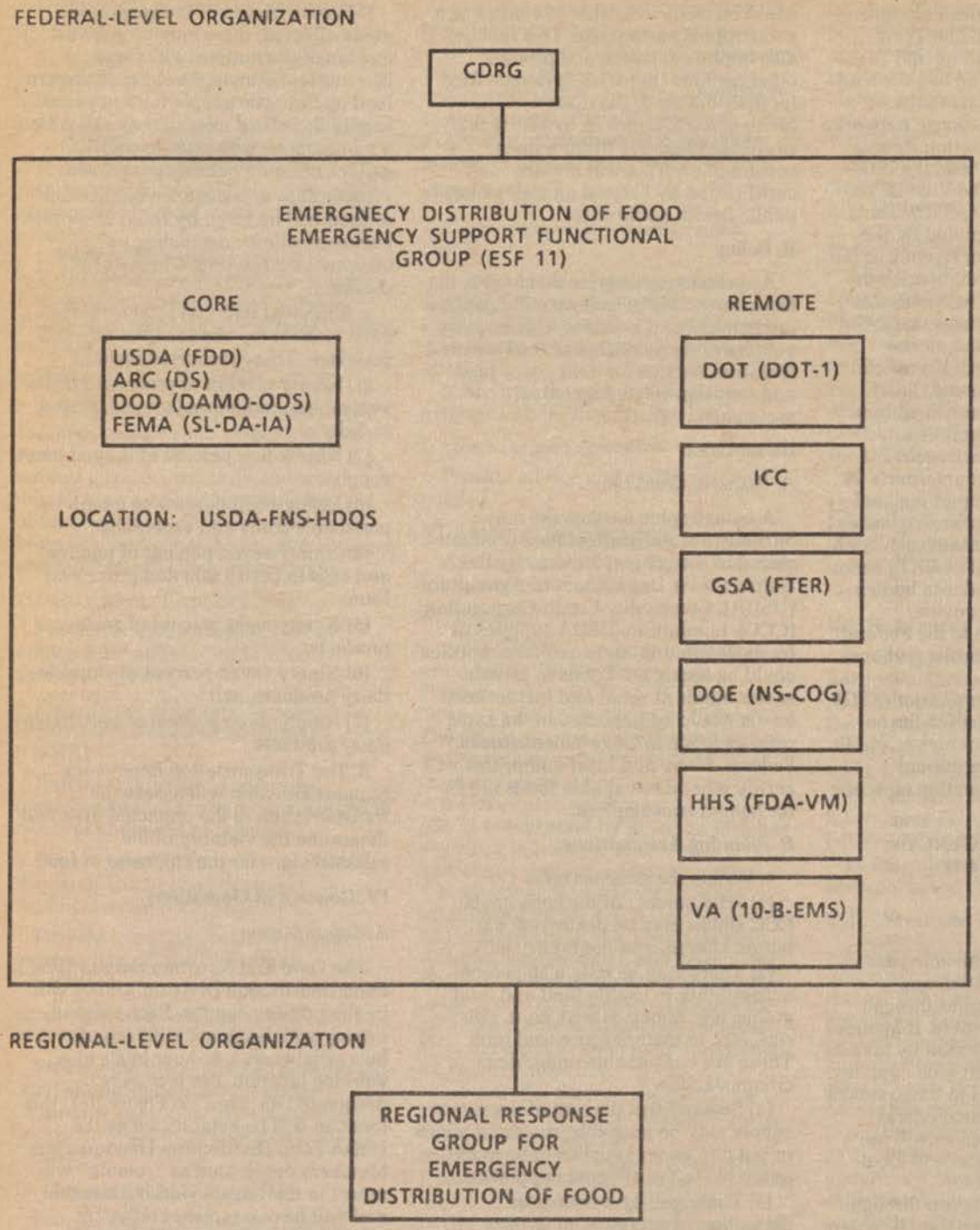


Figure II-1. Composition of the Food Emergency Support Function

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Input will be expected from other ESF responsible for specific ancillary or complimentary support functions. At the same time, this ESF will interact with others as circumstances require.

B. Notification

1. FEMA will notify USDA of implementation of the National Plan. USDA then will notify FNS, Food Distribution Division. Other ESF members will be notified by their parent agencies.

2. Upon notification, all members will report to their working locations. ESF members designated as "remote" in Figure 11.1 will call the ESF to verify their location. ESF members designated as core will report to USDA–FNS–HDQS.

C. Initial Actions

1. As soon as possible, the ESF will assess the amount of food destroyed, the amount of food requiring a protective environment (such as refrigeration) or immediate distribution, and the amount of nonperishable shelf-stable food.

2. Determine the critical needs of the affected population in terms of numbers of people, their location, and usable food preparation facilities for aggregate feeding.

3. The ESF will:

(1) Serve as a collection point for receipt of information from various sources, analyze its value to the overall damage assessment, and develop an inventory of resources.

(2) Catalog available resources of food, water, transportation equipment, storage, and distribution facilities and be able to locate these resources geographically.

(3) Evaluate the adequacy of available resources relative to need on a geographical basis.

(4) Ensure that all identified food sources are fit for human consumption.

4. Support agency representatives will:

(1) Ensure that their agency is aware of the requirements related to food distribution.

(2) Familiarize themselves with reporting procedures to inform Federal and State officials of food availability, resources for distributing food, and locations of the needy.

(3) Provide guidance to regional counterparts and agency officials at the headquarters level about changes to the response requirements. Provide for clerical support to be made available to the operating group when needed.

V. Responsibilities

A. Primary Agency: United States Department of Agriculture (USDA)

1. Determine the availability of federally owned foods, including those raw agricultural commodities (wheat, corn, oats, rice, etc.) that could be used for human consumption, and assess damages to food supplies.

2. Conduct a special assessment of available liquids for drinking and place a high priority on moving those liquids to areas where they are needed.

3. Determine food needs of the population in the impacted areas based on the following categories:

(1) Acutely deficient,

(2) Moderately deficient,

(3) Self-sufficient, and

(4) Surplus supplies.

Priority will be given to move critical supplies of food into areas of acute need and then to areas of moderate need.

4. Arrange for the coordination and management of volunteer and Federal, State, and local government organizations involved in the emergency distribution of food stocks in the designated area.

5. At the discretion of the Secretary, issue free food stamps for up to 30 days to qualifying households within the designated area upon request of the State.

6. Make emergency food supplies available for take-home use in lieu of food stamps for qualifying households.

7. Provide information to the Damage Information ESF on a regular basis regarding damages resulting in food contamination and damages to energy sources necessary for provision of food.

8. Develop a critical path plan of operation that would ensure timely distribution of food in good condition to the proper location.

9. Ensure that the appropriate officials establish and maintain an information flow to the national-level operating group. These designees will ensure that food distribution requirements are known and accomplished.

10. Identify sources of information that have not been considered in the functional plan. Coordination with these groups should assist the food distribution activity.

B. Support Agencies

All agencies included in support roles are necessary to ensure all Federal sources of food are included, along with agencies necessary to ensure logistical support and determine that the food is not a health hazard.

1. Department of Defense

a. Assess the availability of DOD food supplies, potable water, and storage facilities capable of storing dry, chilled, and frozen food.

b. Assess the availability of DOD transportation equipment, material handling equipment, precooking facilities, and personnel for food preparation and support. This responsibility shall be confined to the posts, camps, and stations within or adjacent to the disaster area.

2. Department of Transportation

a. Assess the availability of all modes of transportation; e.g., truck, rail, air, and sea, that are equipped to protect products (cold or chilled, 32 degree F to 50 degrees F; frozen, 32 degrees F or below). Results are to be reported by hundred-weight capacity along with the identification and location of the carriers and the availability of fuel and parts necessary for maintenance.

b. Coordinate with the GSA in locating and arranging for scheduling of rail and motor carrier services required for the movement of emergency food supplies into and within the designated area.

3. Health and Human Services

Determine which foods are fit for human consumption and identify potential problems of contaminated foods (e.g., radiation, chemical, bacterial, and viral).

4. American Red Cross

a. Identify and assess the requirements for food and distribution services on a two-phase basis: critical emergency needs immediately after the disaster, and longer-term sustained needs after the emergency phase is over.

b. Coordinate the food distribution efforts of other volunteer organizations.

5. Federal Emergency Management Agency

Assess the availability of private sector food supplies and distribution resources.

6. General Services Administration

Assess the availability of supplies, facilities, and materials useful in the distribution of food.

7. Interstate Commerce Commission

Assist the DOT in obtaining any exemptions necessary for commercial carriers to transport commodities from outside the designated area.

8. Veterans Administration

a. Assess the availability of its food supplies; potable water; storage facilities for dry, chilled, and frozen food; and food preparation personnel.

b. Identify and assess the needs and requirements for food to sustain medical operations within and adjacent to the impacted area.

c. Provide food stocks from VA supply depots and, as required and available, from local hospitals in the vicinity of the disaster area.

VI. Resource Requirements

A. Sufficient personnel will be needed to identify adequately available foods at all levels of the marketing chain. These levels include on the farm; in assembly warehouses, food processing plants, distributors' warehouses, terminal markets, and retailer warehouses; and in establishments of smaller wholesalers, jobbers, and public warehouses.

B. The supporting agencies will be able to identify, commandeer, and assemble available foods for distribution in support of emergency State requirements. DOD will acquire foods from posts, camps, and stations. VA will be responsible for food from its hospitals and contracted storage facilities. GSA will be responsible for food supplies under its jurisdiction which could be made available.

C. Transportation and logistical support also will be required within 2 hours of notification. This will include logistical support for setting up an operating area that has telecommunications capability for each of the operating group members, and for transportation of appropriate food distribution personnel and other people designated to assist in food distribution. This support will be required within several hours after the occurrence, usually from within the region.

VII. Terms and Definitions

Commodity Credit Corporation (CCC): The CCC's purpose is to stabilize and protect farm income, to assist in maintaining balanced and adequate supplies of agricultural commodities and products, and to facilitate the orderly distribution of commodities. These purposes are accomplished in part by loan, purchase, and payment programs for various farm commodities. Commodities thus acquired are available for distribution to victims of natural and manmade disasters and emergencies.

VIII. References

7 CFR Part 250 Food Distribution Regulations.

[FR Doc. 86-14560 Filed 6-27-86; 8:45 am]
BILLING CODE 6718-01-M

federal register

Monday
June 30, 1986

Part III

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for November 1985

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53080; FRL-3009-6]

Premanufacture Notices; Monthly Status Report for November 1985

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for November 1985.

Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53080]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room 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, Room E-613, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2604)), will identify: (a) PMNs received during November; (b) PMNs received previously and still under review at the end of November; (c) PMNs for which the notice review period has ended during November; (d) chemical substances for which EPA has received a notice of commencement to manufacture during November and (e) PMNs for which the review period has been suspended. Therefore, the November 1985 PMN Status Report is being published.

Dated: April 18, 1986.

Denise Devoe,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, November 1985

I. 133 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-114	Generic name: Esterified aromatic carboxylic acid	50 FR 47435 (11-18-85)	Jan. 29, 1986.
P 86-115	Generic name: Esterified aromatic acyl halide	50 FR 47435 (11-18-85)	Do.
P 86-116	Generic name: Esterified aromatic carboxylic acid	50 FR 47435 (11-18-85)	Do.
P 86-117	Generic name: Esterified aromatic acyl halide	50 FR 47435 (11-18-85)	Do.
P 86-118	Generic name: Esterified polyamic acid	50 FR 47435 (11-18-85)	Do.
P 86-119	Generic name: Blocked polyurethane polyether	50 FR 47435 (11-18-85)	Do.
P 86-120	Generic name: Saturated polyester	50 FR 47435 (11-18-85)	Do.
P 86-121	Generic name: Saturated polyester based on terephthalic acid	50 FR 47435 (11-18-85)	Do.
P 86-122	Generic name: Reactive polyamide resin	50 FR 47435 (47436) (11-18-85)	Feb. 1, 1986.
P 86-123	Generic name: Alkyd resin	50 FR 47435 (47436) (11-18-85)	Do.
P 86-124	Methyltris (1-methylethyl) benzene	50 FR 47435 (47436) (11-18-85)	Do.
P 86-125	Generic name: Water-based polyurethane lacquer	50 FR 47435 (47436) (11-18-85)	Do.
P 86-126	Generic name: Lactide	50 FR 47435 (47436) (11-18-85)	Do.
P 86-127	1,3,4-Thiadiazolidine-2,5-dithione, monosodium salt	50 FR 47435 (47436) (11-18-85)	Do.
P 86-128	Generic name: Polymer of alkanedioic acid, alkanepolyol and benzene polycarboxylic acid	50 FR 47435 (47436) (11-18-85)	Do.
P 86-129	Copper phthalocyanine, [4-sulfonamido-benzene-ethylsulfonyl sodium sulfuric ester], sodium sulfate	50 FR 47435 (47436) (11-18-85)	Do.
P 86-130	Copper phthalocyanine, [3-chloro-5-methoxy-S-triazinylamino ethyl-sulfonamido] sodium sulfonate	50 FR 47435 (47436) (11-18-85)	Do.
P 86-132	Generic name: Amide imide	50 FR 47435 (47436) (11-18-85)	Feb. 2, 1986.
P 86-133	Generic name: Substituted polyamine	50 FR 47435 (47436) (11-18-85)	Do.
P 86-134	Generic name: Polyisobutenylsuccinamide	50 FR 47435 (47436) (11-18-85)	Do.
P 86-135	Generic name: Metal polyisobutenyl succinate	50 FR 47435 (47436) (11-18-85)	Do.
P 86-136	Generic name: Alkyl(heterocyclicyl)-phenylazo-heteromonocyclicpolyone-[(alkylimidazolyl)methyl]derivative	50 FR 47435 (47436) (11-18-85)	Do.
P 86-137	Generic name: Alkyl-(methylhetero-cyclicyl)phenylazo-(heteromonocyclolo) quinazolone	50 FR 47435 (47436) (11-18-85)	Do.
P 86-138	Generic name: Alkyl-(methylhetero-cyclicyl)phenylazo-(heteromonocyclolo) quinazolone-[(alkylimidazolclyl)methyl] derivative.	50 FR 47435 (47436) (11-18-85)	Do.
P 86-139	Generic name: Bisphenol glycidyl ether polyglycol reaction product	50 FR 47435 (47436) (11-18-85)	Do.
P 86-140	Generic name: Blocked aliphatic poly-isocyanate	50 FR 47435 (47436) (11-18-85)	Do.
P 86-141	Generic name: Carboxylated nitrile latex	50 FR 47435 (47436) (11-18-85)	Feb. 3, 1986.
P 86-142	Generic name: Ethoxylated fatty acid amino esters	50 FR 48261 (48262) (11-22-85)	Feb. 5, 1986.
P 86-143	Generic name: Heavy metal-containing silicate catalyst	50 FR 48261 (48262) (11-22-85)	Do.
P 86-144	Generic name: Mixed polyol ester of normal and branched chain monocarboxylic acids	50 FR 48261 (48262) (11-22-85)	Do.
P 86-145	Generic name: Polyamide resin	50 FR 48261 (48262) (11-22-85)	Feb. 9, 1986.
P 86-146	....do	50 FR 48261 (48262) (11-22-85)	Do.
P 86-147	....do	50 FR 48261 (48262) (11-22-85)	Do.
P 86-148	....do	50 FR 48261 (48262) (11-22-85)	Do.
P 86-149	Generic: Polyamide resin	50 FR 48261 (48262) (11-22-85)	Fed. 9, 1986.
P 86-150	Generic name: Vinyl chloride/vinyl acetate terpolymer	50 FR 48261 (48262) (11-22-85)	Do.
P 86-151	Generic name: Metal salt of alkyl-phenol sulfides phosphosulfurized polyalkene complexes	50 FR 48261 (48262) (11-22-85)	Do.
P 86-152	2-Hydroxyethyl trialkylacetate with carbon numbers of C_{10}-C_{12}	50 FR 48261 (48262) (11-22-85)	Do.
P 86-153	2-Hydroxyethyl trialkylacetate with carbon numbers of C_{10}-C_{13}	50 FR 48261 (48262) (11-22-85)	Do.
P 86-154	2-Hydroxyethyl trialkylacetate with carbon numbers of C_{12}-C_{15}	50 FR 48261 (48262) (11-22-85)	Do.
P 86-155	2-Hydroxyethyl trialkylacetate with carbon numbers of C_{13}-C_{16}	50 FR 48261 (48262) (11-22-85)	Do.
P 86-156	Generic name: Food black #2, new salt form	50 FR 48261 (48262) (11-22-85)	Do.
P 86-157	Generic name: Amine functional polyamide	50 FR 48261 (48263) (11-22-85)	Do.
P 86-158	Generic name: Alkylchlorosilane	50 FR 48261 (48263) (11-22-85)	Do.
P 86-159	....do	50 FR 48261 (48263) (11-22-85)	Do.
P 86-160	Generic name: Methylene diphenylene diisocyanate polyol prepolymer	50 FR 48261 (48263) (11-22-85)	Feb. 10, 1986.
P 86-161	Generic name: Polymer of tall oil fatty acids with carbomonocyclic acids, polyols and a carbomonocyclic anhydride	50 FR 48261 (48263) (11-22-85)	Do.
P 86-162	Generic name: Acrylated polymer of tall oil fatty acids with carbomonocyclic acids, polyols and a carbomonocyclic anhydride.	50 FR 48261 (48263) (11-22-85)	Do.
P 86-163	Generic name: Methacrylated polymer of tall oil fatty acids, polyols and a carbomonocyclic anhydride	50 FR 48261 (48263) (11-22-85)	Do.
P 86-164	Generic name: 1 mol of Caprolactone modified by hydroxyethyl methacrylate	50 FR 48261 (48263) (11-22-85)	Do.
P 86-165	Generic name: Alkyd modified vinyl copolymer	50 FR 48261 (48263) (11-22-85)	Do.
P 86-166	Generic name: Mixed glycol oligoesters of aromatic dicarboxylic acids	50 FR 48261 (48263) (11-22-85)	Feb. 11, 1986.
P 86-167	Generic name: Mixed glycol oligoesters of aromatic dicarboxylic acids	50 FR 48261 (48263) (11-22-85)	Do.

I. 133 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-168	Polymer of phthalic anhydride, 2,2,4-trimethyl-1,3-pentanediol, 2,2'-oxybis(ethanol), 2-ethylhexanol, triphenyl-phosphite and Fascat 4100.	50 FR 48261 (48263) (11-22-85)	Feb 2, 1986.
P 86-169	Generic name: Polymeric polyisocyanate polyol prepolymer	50 FR 48261 (48263) (11-22-85)	Feb. 11, 1986.
P 86-170	....do	50 FR 48261 (48264) (11-22-85)	Do.
P 86-171	Generic name: Modified tall oil polyalkylene polyamine	50 FR 48261 (48263) (11-22-85)	Do.
P 86-172	Generic name: Azosubstituted amino-naphthol salt	50 FR 50004 (12-6-85)	Feb 12, 1986
P 86-173	Generic name: Azosubstituted amino-naphthol salt	50 FR 50004 (12-6-85)	Do.
P 86-174	Generic name: Polymeric polyisocyanate polyol prepolymer	50 FR 48261 (48264) (11-22-85)	Feb. 11, 1986.
P 86-175	....do	50 FR 48261 (48264) (11-22-85)	Do.
P 86-176	Generic name: Acid salt of a modified acrylic copolymer	50 FR 50004 (12-6-85)	Feb. 15, 1986.
P 86-177	*N*-(2-Pyrimidinyl)piperazine dihydro-chloride	50 FR 50004 (50005) (12-6-85)	Do.
P 86-178	Generic name: Modified styrene acrylic polymer	50 FR 50004 (50005) (12-6-85)	Feb 16, 1986.
P 86-179	Generic name: Polyester of a vegetable oil derivative and modified hexanediol	50 FR 50004 (50005) (12-6-85)	Do.
P 86-180	Generic name: Urethane polymer, blocked diisocyanate	50 FR 50004 (50005) (12-6-85)	Do.
P 86-181	Generic name: Modified hydrocarbon resins	50 FR 50004 (50005) (12-6-85)	Do.
P 86-182	Generic name: Amine containing polyether polyol	50 FR 50004 (50005) (12-6-85)	Do.
P 86-183	Generic name: Modified alkyd resin	50 FR 50004 (50005) (12-6-85)	Do.
P 86-184	Generic name: Alkyd resin	50 FR 50004 (50005) (12-6-85)	Do.
P 86-185	1H-1,2,4-Triazolium, 1,4-dimethyl-S-[[4-[methyl(phenylmethyl)amino]phenyl]azo]-, trichlorozincate(1-)	50 FR 50004 (50005) (12-6-85)	Feb. 17, 1986.
P 86-186	6-Chloro-1-ethyl-2-(4-*N*,*N*-diethylamino)-phenyl-benz[c,d]idolium-chloride	50 FR 50004 (50005) (12-6-85)	Do.
P 86-187	Phenoxazin-5-ium,3-(diethylamino)-7-(phenylamino)-, trichlorozincate(1-)	50 FR 50004 (50005) (12-6-85)	Do.
P 86-188	[Mu3-[7-[[6-[[4'-[(4,5-dihydro-3-methyl-5-oxo-1-phenyl-1H-pyrazol-4-yl)azo]-3,3'-dihydroxy-[1,1'-biphenyl]-4-yl]azo]-1,5-dihydroxy-7-sulfo-2-naphthalenyl]azo]-8-hydroxy-1,3,6-naphthalenetrisulfonato(10)]]tri-,tetrasodium.	50 FR 50004 (50005) (12-6-85)	Do.
P 86-189	Generic name: Amine capped epoxy	50 FR 50004 (50005) (12-6-85)	Do.
P 86-190	Generic name: Mixed acrylic ester copolymer with monobasic acid modified alkyd resin	50 FR 50004 (50005) (12-6-85)	Do.
P 86-191	Generic name: Alkyl phospnate salt of an acylated polyamine	50 FR 50004 (50005) (12-6-85)	Do.
P 86-192	....do	50 FR 50004 (50006) (12-6-85)	Do.
P 86-193	Generic name: Polyester polyurethane ionomer	50 FR 50004 (50006) (12-6-85)	Do.
P 86-194	Generic name: Caprolactam-blocked cycloaliphatic diisocyanate	50 FR 50004 (50006) (12-6-85)	Do.
P 86-195	Generic name: Quaternary ammonium salt of siloxane and amidine	50 FR 50004 (50006) (12-6-85)	Do.
P 86-196	Generic name: Oil-free saturated polyester	50 FR 50004 (50006) (12-6-85)	Do.
P 86-197	Generic name: Polymer of functional acrylates and mathacrylates	50 FR 50004 (50006) (12-6-85)	Feb. 18, 1986.
P 86-198	....do	50 FR 50004 (50006) (12-6-85)	Do.
P 86-199	Generic name: Polymer of functional acrylates and methacrylates	50 FR 50004 (50006) (12-6-85)	Do.
P 86-200	Generic name: Alkylamine polyglycol ether	50 FR 50004 (50006) (12-6-85)	Do.
P 86-201	Generic name: Polymer of partial ester of polyol with a carboxylic anhydride and an olefin, partial salt	50 FR 50004 (50006) (12-6-85)	Do.
P 86-202	Generic name: Inorganic vanadium compound	50 FR 50225 (12-9-85)	Feb. 19, 1986.
P 86-203	....do	50 FR 50225 (12-9-85)	Do.
P 86-204	Generic name: Polyurethane polymer	50 FR 50225 (50226) (12-9-85)	Do.
P 86-205	Generic name: Polalkylene silane copolymer	50 FR 50225 (50226) (12-9-85)	Do.
P 86-206	Generic name: Unsaturated isophthalic polyester acrylate copolymer	50 FR 50225 (50226) (12-9-85)	Do.
P 86-207	Copolymer of unsaturated fatty acids and mixed acrylic monomers	50 FR 50225 (50226) (12-9-85)	Do.
P 86-208	Generic name: Aromatic MDI polyether polyurethane	50 FR 50225 (50226) (12-9-85)	Do.
P 86-209	Generic name: Brominated phthalate plasticizer	50 FR 50225 (50226) (12-9-85)	Feb. 22, 1986.
P 86-210	Generic name: Polyurethane	50 FR 50225 (50226) (12-9-85)	Do.
P 86-211	Generic name: Aryl cycloalkyl polyamide	50 FR 50225 (50226) (12-9-86)	Do.
P 86-212	Generic name: Cycloaliphatic carbonyl chloride	50 FR 50225 (50226) (12-9-86)	Do.
P 86-213	Generic name: Cycloaliphatic carboxylic acid	50 FR 50225 (50226) (12-9-86)	Do.
P 86-214	Generic name: Functionalized styrene DVB polymer	50 FR 50225 (50226) (12-9-86)	Do.
P 86-215	Generic name: Acrylic oligomeric copolymer	50 FR 50225 (50226) (12-9-86)	Do.
P 86-216	Generic name: Polyurethane prepolymer	50 FR 50225 (50226) (12-9-86)	Feb. 23, 1986.
P 86-217	Generic name: Water-based polyurethane elastomer	50 FR 50225 (50226) (12-9-86)	Do.
P 86-218	Generic name: Polymer of 1,4-Butanediol, adipic acid, 1,15-dodecanedioic acid and dicyclohexylmethyl-4,4'-diisocyanate.	50 FR 50225 (50226) (12-9-86)	Do.
P 86-219	Adipic acid, azelaic acid, phthalic anhydride, polymers with ethylene glycol, neopentyl glycol and isooctanol	50 FR 50225 (50227) (12-9-86)	Do.
P 86-220	Adipic acid, azelaic acid, and phthalic anhydride with ethylene glycol, terminated with isooctanol	50 FR 50225 (50227) (12-9-86)	Do.
P 86-221	Generic name: Crotonate functional styrenated acrylic polymer	50 FR 50225 (50227) (12-9-86)	Do.
P 86-222	Generic name: Substituted anthraquinone	50 FR 50225 (50227) (12-9-86)	Do.
P 86-223	Generic name: Thioether	50 FR 50225 (50227) (12-9-86)	Feb. 24, 1986.
P 86-224	Generic name: Monosubstituted alkyl benezenesulfonyl chloride	50 FR 51302 (12-16-85)	Feb. 26, 1986.
P 86-225	Generic name: Monosubstituted saccharin	50 FR 51302 (12-16-85)	Do.
P 86-226	Generic name: Monosubstituted carboxy-benzenesulfonamide	50 FR 51302 (12-16-85)	Do.
P 86-227	Generic name: Monosubstituted carbo-alkoxybenzenesulfonamide	50 FR 51302 (12-16-85)	Do.
P 86-228	Generic name: Monosubstituted carbo-alkoxybenzenesulfonylisocyanate	50 FR 51302 (12-16-85)	Do.
P 86-229	2-Amino-5-[2-(sulfooxyethyl)sulfonyl]phenol	50 FR 51302 (12-16-85)	Do.
Y 86-26	Generic name: Hydroxy functional acrylic copolymer	50 FR 47437 (11-18-85)	Nov. 24, 1985.
Y 86-27	....do	50 FR 47437 (11-18-85)	Do.
Y 86-28	Generic name: Acrylic copolymer	50 FR 47437 (11-18-85)	Do.
Y 86-29	Generic name: Water soluble urethane	50 FR 47437 (47438) (11-18-85)	Do.
Y 86-30	Polymer of anhydride, 2,2,4-trimethyl-1,3-pentanediol, 2,2-oxybis(ethanol), 2-ethylhexanol, triphenyl phosphite and Fascat 4100.	50 FR 47437 (47438) (11-18-85)	Do.
Y 86-31	Polymer of 2,2-dimethyl-1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propane-diol, 2,2,4-trimethyl-1,3-pentanediol, isobenzo-1,3-furandione, hexanedioic acid, 1, 3-benzenedicarboxylic acid and 1,4-benzenedicarboxylic acid.	50 FR 47437 (47438) (11-18-85)	Do.
Y 86-32	Generic name: Cross-linked polymeric acrylic micro particles	50 FR 47437 (47438) (11-18-85)	Do.
Y 86-33	Generic name: Acetal copolymer	50 FR 48261 (11-22-85)	Nov. 28, 1985.
Y 86-34	Generic name: Maleated rosin ester modified with alkyl phenol formaldehyde condensate	50 FR 48261 (11-22-85)	Dec. 2, 1985.
Y 86-35	Generic name: Copolyamide from dibasic acid, diamine and C_{12}-lactam	50 FR 50006 (12-6-85)	Dec. 5, 1985.
Y 86-36	Generic name: Modified tall oil alkyd	50 FR 50006 (50007) (12-6-85)	Do.
Y 86-37	Generic name: Styrenated/acrylated alkyd	50 FR 50006 (50007) (12-6-85)	Do.
Y 86-38	Generic name: Unsaturated polyester resin	50 FR 50006 (50007) (12-6-85)	Dec. 9, 1985.
Y 86-39	Generic name: Hydroxy functional acrylic copolymer	50 FR 50006 (50007) (12-6-85)	Do.
Y 86-40	Polymer of linseed oil, adipic acid, benzoic acid, pentaerythritol and phthalic anhydride	50 FR 50006 (50007) (12-6-85)	Dec. 11, 1985.
Y 86-41	Generic name: Polyester resin	50 FR 50225 (12-9-85)	Dec. 16, 1985.
Y 86-42	Generic name: Hydroxy functional acrylic copolymer	50 FR 50225 (12-9-85)	Dec. 26, 1985.
Y 86-43	Generic name: Polymer of alkanedioic acid/alkane polyol/benzene polycarboxylic acid	50 FR 50225 (12-9-85)	Nov. 24, 1985.

II. 111 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.

P 86-1
P 86-2
P 86-3
P 86-4
P 86-5
P 86-6
P 86-7
P 86-8
P 86-9
P 86-10
P 86-11
P 86-12
P 86-13
P 86-14
P 86-15
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P 86-105
P 86-106
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P 86-108
P 86-109
P 86-110
P 86-111
P 86-112
P 86-113S4703

III. 136 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory

PMN No.

P 83-1
P 84-121
P 84-391
P 85-141
P 85-142
P 85-444
P 85-720
P 85-730
P 85-973
P 85-1148
P 85-1298
P 85-1299
P 85-1300
P 85-1301
P 85-1302
P 85-1303
P 85-1304
P 85-1305
P 85-1306
P 85-1307
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Y 86-27
Y 86-28
Y 86-29
Y 86-30
Y 86-31
Y 86-32
Y 86-33
Y 86-43

IV. 80 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/generic name	Date of commencement
P 81-221	Generic name: Disubstituted heteropolycyclic salt	Oct. 14, 1985.
P 81-624	Generic name: Modified polyester from alkanedioic acid, substituted alkane triol and a carbomonocyclic acid	Sept. 11, 1985.
P 84-604	Generic name: Polymer from alkane diols, alkanedioic acid and a carbomonocyclic acid	Jan. 31, 1985.
P 83-626	Generic name: Substituted melamine formaldehyde compound	Oct. 10, 1985.
P 83-1272	Generic name: Epoxy modified acrylic polymer	Nov. 14, 1985.
P 84-445	Generic name: Substituted ketone	Oct. 28, 1985.
P 84-447	Generic name: Substituted amine	Oct. 23, 1985.
P 84-448	Generic name: Substituted aldehyde	Oct. 28, 1985.
P 84-565	Polymer of alpha methyl styrene, 2-ethyl hexyl acrylate, hydroxy ethyl acrylate, cumene hydroperoxide, epsilon caprolactone, stannous octate	Oct. 29, 1985.
P 84-744	Generic name: Haloalkyl-polynitro-halobenzene	Sept. 10, 1985.
P 84-781	Generic name: Disubstituted acrylamide salt	Sept. 26, 1985.
P 84-809	Generic name: Polyesterimide resin	Oct. 4, 1985.
P 84-820	Generic name: Phosphonium salt	Oct. 28, 1985.
P 84-1079	Generic name: Alkylated diphenyl oxide	Oct. 16, 1985.
P 84-1113	Generic name: Acid form of sulfonated, alkylated diphenyl oxide	Oct. 23, 1985.
P 84-1114	Generic name: Sodium salt of sulfonated, alkylated diphenyl oxide	Oct. 24, 1985.
P 84-1128	Generic name: Isoalkyleneoxy alkanol	Oct. 31, 1985.
P 84-1144	Generic name: Isoalkyleneoxy alkanoate	Do.
P 84-1220	Generic name: Disubstituted piperazine	Oct. 15, 1985.
P 85-43	Polymer of phenol, triphenyl ethyl phosphonium iodide, trimellitic anhydride	Nov. 1, 1985.
P 85-77	Generic name: Modified acrylic polymer	Nov. 15, 1985.
P 85-118	Generic name: Polyurethane	Nov. 12, 1985.
P 85-245	Generic name: Modified hydrocarbon resin	Oct. 15, 1985.
P 85-351	2,6-Naphthalene dicarboxylic acid	Dec. 8, 1985.
P 85-415	Generic name: Acrylic ester	Oct. 31, 1985.
P 85-438	Generic name: Bis(substituted-benzamide), N,N'-substituted-	Nov. 1, 1985.
P 85-455	Palm kernel acids, 2-sulfoethyl ester, sodium salt	July 20, 1985.
P 85-459	Generic name: Aromatic tertiary diamine	Oct. 28, 1985.
P 85-464	Generic name: Substituted phenyl azo substituted heteromonocycle	Nov. 10, 1985.
P 85-623	Generic name: Substituted benzene sulfonic acid, -[chloro-[(substituted phenyl)amino]-triazinyl amino]-[[amino carbonyl-ethyl-hydroxy-methyl-oxo-pyridinyl]hydroxy-methyl-oxo-pyridine azo]-, alkali metal salt.	Sept. 1, 1985.
P 85-656	Generic name: Cyanobiphenyl, alkyl cyclohexane carboxylic acid	Oct. 28, 1985.
P 85-657	Generic name: Cyano-alkylterphenyl	Do.
P 85-658	Generic name: Cyanobiphenyl	Oct. 28, 1985.
P 85-659	Generic name: Cyano naphthyl, alkyl cyclohexane carboxylic acid	Do.
P 85-701	Generic name: Polyester derivative	Oct. 16, 1985.

IV. 80 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/generic name	Date of commencement
P 85-702	Generic name: Acrylic terpolymer resin	Oct. 10, 1985.
P 85-842	(+) 4-n-decyloxy-4'-(2-methylbutyl) phenylbenzoate	Oct. 21, 1985.
P 85-898	Generic name: Phosphoric acid, alkyl esters	Oct. 11, 1985.
P 85-908	Generic name: Short oil alkyd resin	Oct. 5, 1985.
P 85-909	Generic name: Aliphatic, cycloaliphatic polyester	Do.
P 85-910	Generic name: Aliphatic, aromatic copolyester	Do.
P 85-955	Generic name: Copolymer of acrylonitrile, acrylic acid and aliphatic amine, salt	Oct. 9, 1985.
P 85-991	4-4'-(octahydro-4,7-methano-5H-inden-5-ylidene)bis(2-phenoxyethanol)	Oct. 7, 1985.
P 85-1007	Generic name: Oxazaline	Oct. 28, 1985.
P 85-1010	3-Bromopropanoyl chloride	Oct. 17, 1985.
P 85-1011	Generic name: Substituted bromopropanoic acid derivative	Oct. 23, 1985.
P 85-1077	Generic name: Substituted bis phenyl isobenzofuranone	Oct. 21, 1985.
P 85-1110	(N-substituted-aminocarbonyl)alkyl substituted aromatic heterocycle, halide salt	Oct. 29, 1985.
P 85-1136	Generic name: Ketoxime blocked urethane polymer of an aromatic diisocyanate, alkane polyols, alkanedioic acid	Nov. 7, 1985.
P 85-1146	Generic name: Aliphatic aromatic copolyester	Nov. 5, 1985.
P 85-1214	Generic name: Reaction product of functionalized alcohol, tall oil fatty acids, and hydroxy acryl ketones	Oct. 31, 1985.
P 85-1215	Generic name: Modified alkyd resin	Do.
P 85-1251	Generic name: Substituted aromatic polymer	Do.
P 85-1252	Generic name: Aliphatic polyisocyanate modified acrylic resin	Oct. 24, 1985.
P 85-1253	.....do	Do.
P 85-1254	.....do	Oct. 25, 1985.
P 85-1255	.....do	Do.
P 85-1256	.....do	Oct. 26, 1985.
P 85-1257	.....do	Do.
P 85-1258	.....do	Oct. 27, 1985.
P 85-1259	.....do	Do.
P 85-1260	.....do	Oct. 28, 1985.
P 85-1261	.....do	Do.
P 85-1289	Generic name: Bis-(alkylureido)-alkane	Nov. 1, 1985.
P 85-1308	Generic name: Amine salt of a carboxyl terminated polyester urethane polymer	Nov. 4, 1985.
P 85-1309	Generic name: Amine salt of a carboxyl terminated polyether urethane polymer	Do.
P 85-1310	Generic name: Polyether urethane polymer	Do.
P 85-1311	Polymer of tall oil rosin, phenol-formaldehyde copolymer, calcium hydroxide, paraformaldehyde, acetic acid and p-tert-butylphenol-formaldehyde copolymer	Nov. 10, 1985.
P 85-1313	Polymer of tall oil rosin, phenol-formaldehyde copolymer, hydroxide, paraformaldehyde and acetic acid	Nov. 6, 1985.
P 85-1319	Generic name: Fatty acids, amides from alkanolamines	Nov. 18, 1985.
P 85-1322	Generic name: MDI-polyol prepolymer	Nov. 11, 1985.
P 85-1368	Generic name: Alkyl benzoic acid metal complex	Nov. 17, 1985.
P 85-1393	Generic name: Polymer of bisanhydride of bisphenol-A, and an aromatic diamine	Dec. 2, 1985.
P 85-1394	Generic name: Benzenamine, N,N'-(1,4-phenylenedimethylidyne bis[3-ethymyl	Nov. 25, 1985.
Y 85-14	Generic name: Rosin-modified phenolic resin	Oct. 7, 1985.
Y 85-133	Generic name: Alkali metal salt of ester of polyfunctional alkylene oxide polymer	Oct. 11, 1985.
Y 85-137	Generic name: Cross-linked polymeric acrylic micro particles	Nov. 11, 1985.
Y 85-149	Generic name: Styrenated vegetable oil	Oct. 3, 1985.
Y 86-5	Generic name: Silicone modified alkyd polymer	Oct. 29, 1985.
Y 86-6	Generic name: Starch grafted sodium polyacrylate	Oct. 8, 1985.

V. 16 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/Generic name	FR citation	Date suspended
P 84-881	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylates	49 FR 28614 (28615) (7-13-84)	Nov. 4, 1985.
P 85-1013	Generic name: Aliphatic diurethane acrylate ester	50 FR 24936 (24937) (6-14-85)	Nov. 6, 1985.
P 85-1051	Starch, 2-hydroxy-3-(trimethylammonia) propyl ether, chloride, phosphate	50 FR 24938 (24941) (6-14-85)	Nov. 13, 1985.
P 85-1169	2-Butanone, O,O'-(ethenyl methyl silylene) dioxime, (E-Z)	50 FR 30513 (30514) (7-26-85)	Nov. 7, 1985.
P 85-1302	Generic name: Functional alkyl methacrylate	50 FR 33630 (8-20-85)	Nov. 18, 1985.
P 85-1307	Generic name: Alkenoic acid, trisubstituted-benzyl disubstituted phenyl ester	50 FR 33630 (33631) (8-20-85)	Nov. 14, 1985.
P 85-1316	Generic name: 2-Naphthalenesulfonic acid, 6-acetamido-4-hydroxy-[substituted]azo, 1:2 metal complex, trisodium salt	50 FR 33630 (33631) (8-20-85)	Nov. 1, 1985.
P 85-1318	Generic name: Functional polyurethane from polyalkylene oxide, aliphatic diisocyanate and substituted alkanol	50 FR 33630 (33632) (8-20-85)	Nov. 18, 1985.
P 85-1335	Generic name: Oil modified polyester of aromatic and dibasic acids	50 FR 34189 (34190) (8-23-85)	Nov. 25, 1985.
P 85-1337	Generic name: Omega, omega'-dialkyl polyglycol ethers	50 FR 34189 (34190) (8-23-85)	Nov. 7, 1985.
P 85-1341	Generic name: Sulfonates of ethoxylated alcohols	50 FR 34189 (34190) (8-23-85)	Nov. 26, 1985.
P 85-1342	Generic name: Substituted diazo compound	50 FR 34189 (34190) (8-23-85)	Nov. 7, 1985.
P 85-1408	Generic name: Substituted alkyl, alkyl oxazolidine	50 FR 38194 (38195) (9-20-85)	Nov. 20, 1985.
P 85-1420	Generic name: Substituted allyl aniline	50 FR 38194 (38196) (9-20-85)	Nov. 22, 1985.
P 86-87	Generic name: Arylalkyl substituted phosphonium salt	50 FR 46501 (46502) (11-8-85)	Nov. 18, 1985.
P 86-131	Generic name: Mixed ether	50 FR 47435 (47436) (11-18-85)	Nov. 20, 1985.

[FR Doc. 86-9416 Filed 6-27-86; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Monday
June 30, 1986

Part IV

Environmental Protection Agency

40 CFR Part 136

Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Technical Amendments and Notice of Availability of Information

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL-3041-1]

Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Technical Amendments

AGENCY: Environmental Protection Agency.

ACTION: Technical amendments.

SUMMARY: This action under the Clean Water Act (CWA) section 304(h) amends 40 CFR Part 136 to add clarifying footnotes to the lists of approved test procedures, update method citations in Tables IA and IE, to amend the incorporation by reference section of the regulation accordingly, and to correct certain typographical errors and omissions.

FOR FURTHER INFORMATION CONTACT: James E. Longbottom, Environmental Monitoring and Support Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, 26 W. St. Clair, Cincinnati, Ohio 45268, Telephone Number: (513) 569–7308.

EFFECTIVE DATE: June 30, 1986.

SUPPLEMENTARY INFORMATION: I. In Table IB, the Standard Methods citations for total cyanide, parameter 23 were transcribed by EPA in the wrong order in the October 26, 1984 amendments. This notice corrects this error. In Table IB, EPA also inadvertently deleted test procedures that had been approved in 1976 amendments to Part 136 from the amendments published on October 26, 1984. These include: the diphenylcarbazide colorimetric procedure for chromium VI, dissolved, parameter 18, and for chromium, total, parameter 19; the iodometric starch-iodide procedure for chlorine, total residual, parameter 17; and a titrimetric iodine method for sulfide, parameter 66, from the 13th Edition of Standard Methods. The ammonia nitrogen electrode procedure (Method 417E) approved for measurement of Kjeldahl nitrogen, parameter 31 in Table IB, as ammonia nitrogen is now also approved for ammonia nitrogen, parameter 4, to correct an editorial omission by EPA. This notice corrects these inadvertent deletions. In Table IE, the parameter title for Beta-total was inadvertently omitted and is corrected by this notice.

II. Clarification has been requested in Table IB for Note 3, and on the procedure to prepare phenolic samples for distillation if they have been preserved with sulfuric acid. Note 3 has been editorially restructured to clarify when digestion may be omitted in the determination of total metals. A new note (note 29) has been added to Table IB to describe the procedure for adjusting sample pH to 4 prior to distillation for phenols. These clarifications are not substantive.

III. The Standard Methods references in Tables IB and IE are generally updated to the 16th Edition by today's notice. Each approved method was carefully reviewed for substantive changes between the 15th and 16th Editions. With the exception of the Turbidimetric Method for Sulfate, the 16th Edition Methods were found to be technically equivalent to the approved 15th Edition Methods. Therefore, we are updating the Standard Methods citations to the 16th Edition for all but the Turbidimetric Method for Sulfate. Since the 16th Edition has been structured to separately describe the standard addition calibration procedure for the electrode method, both the ammonia and Kjeldahl nitrogen citations have been modified to cite Methods 417E and 417F. These changes are not substantive.

IV. References in Table IB and IE to American Standards for Testing and Materials (ASTM), U.S. Geological Survey (USGS), and Association of Official Analytical Chemists (AOAC) have also been updated where appropriate to the most recent editions.

The list of references incorporated into this regulation has been expanded to include the 13th Edition of Standard Methods and to add the 16th Edition of Standard Methods to support the titrimetric iodine method for sulfide, discussed above, and revised to reflect the updated citations.

V. In Appendix B, of Part 136, the last sentence under reporting contradicts the procedure described in the Appendix, due to inadvertent editing by EPA. This notice corrects the sentence to be consistent with the procedure.

VI. The remaining amendments in this notice are very minor and are typographical or editorial in nature. Table IB and the notes to this Table have been reprinted in their entirety for the convenience of the user.

VII. The Administrative Procedures Act, 5 U.S.C. 551, *et seq.*, authorizes an agency to forego notice and comment on rulemaking when the agency for good cause finds that notice and public procedure thereon are impracticable, unneccessary or contrary to the public interest. EPA believes that notice- and comment- on these technical amendments is unnecessary because many of these errors were pointed out by the public; to benefit the public, then the errors should be corrected as soon as possible. Therefore, notice and public procedure is impracticable, unnecessary, and contrary to the public interest and does not apply to this Technical Amendment notice.

VIII. Executive Order 12291 requires each Federal agency to determine if a regulation is a major rule as defined by the order and to prepare and consider a regulatory impact analysis for such rules. This technical amendment is not a major regulatory action because it will not have a major financial or adverse impact on the community.

The Regulatory Flexibility Act requires (5 U.S.C. 601 *et seq.*) EPA to consider the effect of regulations on small entities. This technical amendment will not have a significant effect on a substantial number of small systems.

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) seeks to minimize the reporting burden on the regulated community, as well as minimize the cost of federal information collection and dissemination. The technical amendments does not change the reporting burden.

Dated: June 18, 1986.

Norbert Jaworski,

Acting Assistant Administrator, Office of Research and Development (RD–672).

PART 136—[AMENDED]

The following technical amendments are made to 40 CFR Part 136.

1. The authority citation for 40 CFR Part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95–217, Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (the Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.)

2. In § 136.3, Table IB is revised to read as follows:

§ 136.3 Identification of test procedures.

* * * * *

BILLING CODE 6560-50-M

TABLE IB.—LIST OF APPROVED INORGANIC TEST PROCEDURES

Parameter and Units	Method	Reference (Method No. or Page)				
		EPA 1979	Std. Methods 16th Ed.	ASTM	USGS[1]	Other
1. Acidity, as $CaCO_3$ mg/L	Electrometric end point or phenolphthalein end point.	305.1	402(4.a)	D1067-82(E)	—	
2. Alkalinity, as $CaCO_3$, mg/L	Electrometric or colorimetric titration to pH 4.5, manual, or	310.1	403	D1067-82(B)	I-1030-84	33.014[2]
	Automated.	310.2	—	—	I-2030-84	
3. Aluminum—Total[3] mg/L	Digestion[3] followed by					
	AA direct aspiration,	202.1	303C	—	I-3051-84	
	AA furnace,	202.2	304	—	—	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Colorimetric (Erichrome cyanine R).	—	306B	—	—	
4. Ammonia (as N), mg/L	Manual distillation (at pH 9.5)[5], followed by	350.2	417A	—	—	33.057[2]
	Nesslerization,	350.2	417B	D1426-79(A)	I-3520-84	33.057[2]
	Titration,	350.2	417D	—	—	
	Electrode,	350.3	417E or F	D1426-79(D)	—	
	Automated phenate or	350.1	417G	D1426-79(C)	I-4523-84	
	Automated electrode.	—	—	—	—	Note 6
5. Antimony—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	204.1	303A	—	—	
	AA furnace, or	204.2	304	—	—	
	Inductively coupled plasma	—	—	—	—	200.7[4]
6. Arsenic—Total[3], mg/L	Digestion[3] followed by	206.5	—	—	—	
	AA gaseous hydride,	206.3	303E	D2972-84(B)	I-3062-84	
	AA furnace,	206.2	304	—	—	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Colorimetric (SDDC)	206.4	307B	D2972-84(A)	I-3060-84	
7. Barium—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	208.1	303C	—	I-3084-84	
	AA furnace, or	208.2	304	—	—	
	Inductively coupled plasma	—	—	—	—	200.7[4]
8. Beryllium—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	210.1	303C	D3654-84(A)	I-3095-84	
	AA furnace,	210.2	304	—	—	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Colorimetric (aluminon).	—	309B	—	—	
9. Biochemical oxygen demand (BOD_5), mg/L	Dissolved Oxygen Depletion	405.1	507	—	I-1578-78[7]	33.019[2], p.17[8]
10. Boron—Total, mg/L	Colorimetric (curcumin), or Inductively Coupled plasma.	212.3	404A	—	I-3112-84	
		—	—	—	—	200.7[4]
11. Bromide, mg/L	Titrimetric.	320.1	—	D1246-82(C)	I-1125-84	p.S44[9]

TABLE 1B.—LIST OF APPROVED INORGANIC TEST PROCEDURES—CONTINUED

Parameter and Units	Method	Reference (Method No. or Page)				
		EPA 1979	Std. Methods 16th Ed.	ASTM	USGS[1]	Other
12. Cadmium—Total[3], mg/L	Digestion[3] followed by AA direct aspiration,	213.1	303A or B	D3557-84(A or B)	I-3135-84 or I-3136-84	33.089[2], p.37[8]
	AA furnace,	213.2	304	—	—	
	Inductively coupled plasma,	—	—	—	—	200.7[4]
	Voltametry[10], or	—	—	D3557-84(C)	—	
	Colorimetric (Dithizone).	—	310B	—	—	
13. Calcium—Total[3], mg/L	Digestion[3] followed by AA direct aspiration,	215.1	303A	D511-84(B)	I-3152-84	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Titrimetric (EDTA).	215.2	311C	D511-84(A)	—	
14. Carbonaceous biochemical oxygen demand ($CBOD_5$), mg/L[11]	Dissolved Oxygen Depletion with nitrification inhibitor.	—	507(5.e.6)	—	—	
15. Chemical oxygen demand (COD), mg/L	Titrimetric, or,	410.1, 410.2, or 410.3	508A	D1252-83	I-3560-84 or I-3562-84	33.034[2], p.17[8]
	Spectrophotometric, manual or automated.	410.4	—	—	I-3561-84	Notes 12 or 13
16. Chloride, mg/L	Titrimetric (silver nitrate)	—	407A	D512-81(B)	I-1183-84	
	or (Mercuric nitrate), or	325.3	407B	D512-81(A)	I-1184-84	33.067[2]
	Colorimetric, manual or	—	—	D512-81(C)	I-1187-84	
	Automated (ferricyanide).	325.1, or 325.2	407D	—	I-2187-84	
17. Chlorine—Total residual, mg/L	Titrimetric					
	Amperometric direct,	330.1	408C	D1253-76(A)	—	
	Starch end point direct,	330.3	408A	D1253-76(B) Part 18.3	—	
	Back titration either end point[14], or	330.2	408B	—		
	DPD-FAS;	330.4	408D	—	—	
	Spectrophotometric, DPD,	330.5	408E	—	—	
	or Electrode.	—	—	—	—	Note 15
18. Chromium VI dissolved, mg/L	0.45 micron filtration followed by					
	AA chelation-extraction,	218.4	303B	—	I-1232-84	
	or Colorimetric (Diphenylcarbazide).	—	—	—	I-1230-84	307B[16]
19. Chromium—Total[3], mg/L	Digestion[3] followed by AA direct aspiration,	218.1	303A	D1687-84(D)	I-3236-84	33.089[2]
	AA chelation—extraction,	218.3	303B	—	—	
	AA furnace,	218.2	304	—	—	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Colorimetric (Diphenylcarbazide).	—	312B	D1687-84(A)	—	
20. Cobalt—Total[3], mg/L	Digestion[3] followed by AA direct aspiration,	219.1	303A or B	D3558-84(A or B)	I-3239-84 or I-3240-84	p.37[8]
	AA furnace, or	219.2	304	—	—	
	Inductively coupled plasma.	—	—	—	—	200.7[4]

TABLE IB —LIST OF APPROVED INORGANIC TEST PROCEDURES—CONTINUED

Parameter and Units	Method	Reference (Method No. or Page)				
		EPA 1979	Std. Methods 16th Ed.	ASTM	USGS[1]	Other
21. Color, platinum cobalt units or dominant wavelength, hue, luminance, purity.	Colorimetric (ADMI), or	110.1	204D	—	—	Note 17
	(Platinum cobalt), or	110.2	204A	—	I-1250-84	
	Spectrophotometric.	110.3	204B	—	—	
22. Copper—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	220.1	303A or B	D1688-84(D or E)	I-3270-84 or I-3271-84	33.089[2], p.37[8]
	AA furnace,	220.2	304	—	—	
	Inductively coupled plasma,	—	—	—	—	200.7[4]
	Colorimetric (Neocuproine), or	—	313B	D1688-84(A)	—	
	(Bicinchoninate).	—	—	—	—	Note 18
23. Cyanide—Total, mg/L	Manual distillation with $MgCl_2$ followed by	—	412B	—	—	
	Titrimetric, or	—	412C	—	—	p.22[8]
	Spectrophotometric, manual or	335.2	412D	D2036-82(A)	I-3300-84	
	Automated.[19]	335.3	—	D2036-82(A)	—	
24. Cyanide amenable to chlorination, mg/L	Manual distillation with $MgCl_2$ followed by titrimetric or spectrophotometric	335.1	412F	D2036-82(B)	—	
25. Fluoride—Total, mg/L	Manual distillation[6] followed by	—	413A	—	—	
	Electrode, manual or	340.2	413B	D1179-80(B)	—	
	Automated,	—	—	—	I-4327-84	
	Colorimetric (SPADNS), or Automated complexone.	340.1	413C	D1179-80(A)	—	
		340.3	413E	—	—	
26. Gold—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration, or	231.1	303A	—	—	
	AA furnace.	231.2	304	—	—	
27. Hardness—Total, as $CaCO_3$, mg/L	Automated colorimetric,	130.1	—	—	—	
	Titrimetric (EDTA), or	130.2	314B	D1126-80	I-1338-84	33.082[2]
	Ca plus Mg as their carbonates, by inductively coupled plasma or AA direct aspiration. (See Parameters 13 and 33.)					
28. Hydrogen ion (pH), pH units	Electrometric, measurement, or	150.1	423	D1293-84(A or B)	I-1586-84	33.006[2]
	Automated electrode.	—	—	—	—	Note 20
29. Iridium—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration, or	235.1	303A	—	—	
	AA furnace.	235.2	304	—	—	
30. Iron—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	236.1	303A or B	D1068-84(C or D)	I-3381-84	33.089[2]
	AA furnace,	236.2	304	—	—	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Colorimetric (Phenanthroline).	—	315B	D1068-84(A)	—	Note 21

TABLE IB —LIST OF APPROVED INORGANIC TEST PROCEDURES—CONTINUED

Parameter and Units	Method	Reference (Method No. or Page)				
		EPA 1979	Std. Methods 16th Ed.	ASTM	USGS[1]	Other
31. Kjeldahl nitrogen—Total, (as N), mg/L	Digestion and distillation followed by					
	Titration,	351.3	420A or B	D3590-84(A)	--	
	Nesslerization,	351.3	417D	D3590-84(A)	—	33.051[2]
	Electrode,	351.3	417B	D3590-84(A)	—	
	Automated phenate,	351.3	417E or F	—	--	
	Semi-automated block digestor, or	351.1	—	—	I-4551-78[7]	
	Potentiometric.	351.2	—	D3590-84(A)	--	
		351.4	—	D3590-84(A)	—	
32. Lead—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	239.1	303A or B	D3559-85(A or B)	I-3399-84	33.089[2]
	AA furnace,	239.2	304	—	—	
	Inductively coupled plasma,	—	—	—	--	200.7[4]
	Voltametry[10], or	—	—	D3559-85(C)	—	
	Colorimetric (Dithizone).	—	316B	—	—	
33. Magnesium—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	242.1	303A	D511-84(B)	I-3447-84	33.089[2]
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Gravimetric	—	318B	D511-77(A)	—	
34. Manganese—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	243.1	303A or B	D858-84(B or C)	I-3454-84	33.089[2]
	AA furnace,	243.2	304	--	—	
	Inductively coupled plasma, or	—	—	—	--	200.7[4]
	Colorimetric (Persulfate), or	—	319B	D858-84(A)	--	33.126[2]
	(Periodate)	—	—	—	—	Note 22
35. Mercury—Total[3], mg/L	Cold vapor, manual or	245.1	303F	D3223-80	I-3462-84	33.095[2]
	Automated.	245.2	—	—	—	
36. Molybdenum—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	246.1	303C	—	I-3490-84	
	AA furnace, or	246.2	304	—	—	
	Inductively coupled plasma.	—	—	—	—	200.7[4]
37. Nickel—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	249.1	303A or B	D1886-84(C or D)	I-3499-84	
	AA furnace,	249.2	304	—	—	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Colorimetric (Heptoxime).	—	321B	—	—	
38. Nitrate (as N), mg/L	Colorimetric (Brucine sulfate), or	352.1	—	D992-71	—	33.063[2], 419D[16], p.28[9]
	Nitrate-nitrite N minus Nitrite N (See parameters 39 and 40).					
39. Nitrate-nitrite (as N), mg/L	Cadmium reduction,					
	Manual or	353.3	418C	D3867-85(B)	—	
	Automated, or	353.2	418F	D3867-85(A)	I-4545-84	
	Automated hydrazine.	353.1	—	—	—	

TABLE IB.—LIST OF APPROVED INORGANIC TEST PROCEDURES—CONTINUED

Parameter and Units	Method	Reference (Method No. or Page)				
		EPA 1979	Std. Methods 16th Ed.	ASTM	USGS[1]	Other
40. Nitrite (as N), mg/L	Spectrophotometric, Manual or	354.1	419	D1254-67	—	Note 24
	Automated (Diazotization).	—	—	—	I-4540-84	
41. Oil and grease—Total recoverable, mg/L	Gravimetric (extraction).	413.1	503A	—	—	
42. Organic carbon—Total (TOC), mg/L	Combustion or oxidation.	415.1	505	D2579-85(A or B)	—	33.044[2], p.4[23]
43. Organic nitrogen (as N) mg/L	Total Kjeldahl N (Parameter 31) minus ammonia N (Parameter 4.)					
44. Orthophosphate (as P), mg/L	Ascorbic acid method, Automated or	365.1	424G	—	I-4601-84	33.116[2]
	Manual single reagent,	365.2	424F	D515-82(A)	—	33.111[2]
	or Manual two reagent.	365.3	—	—	—	
45. Osmium—Total[3], mg/L	Digestion[3] followed by AA direct aspiration, or	252.1	303C	—	—	
	AA furnace.	252.2	304	—	—	
46. Oxygen, dissolved, mg/L	Winkler (Azide modification), or	360.2	421B	D888-81(C)	I-1575-78[7]	33.028[2]
	Electrode.	360.1	421F	—	I-1576-78[7]	
47. Palladium—Total[3], mg/L	Digestion[3] followed by AA direct aspiration, or	253.1	—	—	—	p.S27[9]
	AA furnace.	253.2	—	—	—	p.S28[9]
48. Phenols, mg/L	Manual distillation[25] followed by Colorimetric (4AAP) manual, or	420.1	—	D1783-80(A or B)	—	Note 26
	Automated[19].	420.1	—	—	—	Note 26
		420.2	—	—	—	
49. Phosphorus (elemental) mg/L	Gas-liquid chromatography.	—	—	—	—	Note 27
50. Phosphorus—Total, mg/L	Persulfate digestion followed by Manual or	365.2	424C(III)	—	—	33.111[2]
		365.2 or 365.3	424F	D515-82(A)	—	
	Automated ascorbic acid reduction, or	365.1	424G	—	I-4600-84	33.116[2]
	Semi-automated block digestor.	365.4	—	—	—	
51. Platinum—Total[3], mg/L	Digestion[3] followed by AA direct aspiration, or	255.1	303A	—	—	
	AA furnace.	255.2	304	—	—	
52. Potassium—total[3], mg/L	Digestion followed by AA direct aspiration,	258.1	303A	—	I-3630-84	33.103[2]
	Inductively coupled plasma	—	—	—	—	200.7[4]
	Flame photometric, or	—	322B	D1428-82(A)	—	
	Colorimetric (Cobaltinitrate).	—	—	—	—	317B[16]

TABLE IB.—LIST OF APPROVED INORGANIC TEST PROCEDURES—CONTINUED

Parameter and Units	Method	Reference (Method No. or Page)				
		EPA 1979	Std. Methods 16th Ed.	ASTM	USGS[1]	Other
53. Residue—Total, mg/L	Gravimetric, 103-105°C.	160.3	209A	—	I-3750-84	
54. Residue—filterable, mg/L	Gravimetric, 180°C.	160.1	209B	—	I-1750-84	
55. Residue—nonfilterable, (TSS), mg/L	Gravimetric, 103-105°C post washing of residue.	160.2	209C	—	I-3765-84	
56. Residue—settleable, mg/L	Volumetric (Imhoff cone) or gravimetric.	160.5	209E	—	—	
57. Residue—volatile, mg/L	Gravimetric, 550°C.	160.4	209D	—	I-3753-84	
58. Rhodium—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration, or	265.1	303A	—	—	
	AA furnace.	265.2	304	—	—	
59. Ruthenium—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration, or	267.1	303A	—	—	
	AA furnace.	267.2	304	—	—	
60. Selenium—Total[3], mg/L	Digestion[3] followed by					
	AA furnace,	270.2	304	—	—	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	AA gaseous hydride.	270.3	303E	D3859-84(A)	I-3667-84	
61. Silica—Dissolved, mg/L	0.45 micron filtration followed by					
	Colorimetric, Manual or Automated (Molybdosilicate), or	370.1	425C	D859-80(B)	I-1700-84	
		—	—	—	I-2700-84	
	Inductively coupled plasma.	—	—	—	—	200.7[4]
62. Silver—Total[2,8], mg/L	Digestion[3] followed by					
	AA direct aspiration,	272.1	303A or B	—	I-3720-84	33.089[2], p.37[8]
	AA furnace,	272.2	304	—	—	
	Colorimetric (Dithizone), or	—	—	—	—	3198[16]
	Inductively coupled plasma.	—	—	—	—	200.7[4]
63. Sodium—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	273.1	303A	—	I-3735-84	33.107[2]
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Flame photometric.	—	325B	D1428-82(A)	—	
64. Specific conductance, micromhos/cm at 25°C	Wheatstone bridge.	120.1	205	D1125-82(A)	I-1780-84	33.002[2]
65. Sulfate (as SO_4), mg/L	Automated colorimetric (barium chloranilate),	375.1	—	—	—	
	Gravimetric, or	375.3	426A or B	D516-82(A)	—	33.124[2]
	Turbidimetric.	375.4	—	D516-82(B)	—	426C[29]

TABLE IB.—LIST OF APPROVED INORGANIC TEST PROCEDURES—CONTINUED

Parameter and Units	Method	Reference (Method No. or Page)				
		EPA 1979	Std. Methods 16th Ed.	ASTM	USGS[1]	Other
66. Sulfide (as S), mg/L	Titrimetric (iodine) or Colorimetric (methylene blue).	376.1	427D	—	I-3840-84	228A[30]
		376.2	427C	—	—	
67. Sulfite (as SO_3), mg/L	Titrimetric (iodine-iodate).	377.1	428A	D1339-84(C)	—	
68. Surfactants, mg/L	Colorimetric (methylene blue).	425.1	512B	D2330-82(A)	—	
69. Temperature, °C.	Thermometric.	170.1	212	—	—	Note 31
70. Thallium—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	279.1	303A	—	—	
	AA furnace, or	279.2	304	—	—	
	Inductively coupled plasma.	—	—	—	—	200.7[4]
71. Tin—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration, or	282.1	303A	—	I-3850-78[7]	
	AA furnace.	282.2	304	—	—	
72. Titanium—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration, or	283.1	303C	—	—	
	AA furnace.	283.2	304	—	—	
73. Turbidity, NTU	Nephelometric.	180.1	214A	D1889-81	I-3860-84	
74. Vanadium, Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	286.1	303C	—	—	
	AA furnace,	286.2	304	—	—	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Colorimetric (Gallic acid).	—	327B	D3373-84(A)	—	
75. Zinc—Total[3], mg/L	Digestion[3] followed by					
	AA direct aspiration,	289.1	303A or B	D1691-84(C or D)	I-3900-84	33.089[2], p.37[8]
	AA furnace,	289.2	304	—	—	
	Inductively coupled plasma, or	—	—	—	—	200.7[4]
	Colorimetric (Dithizone) or	—	328C	—	—	
	(Zincon).	—	—	—	—	Note 32

[1]"Methods for Analysis of Inorganic Substances in Water and Fluvial Sediments," U.S. Department of the Interior, U.S. Geological Survey, Open-File Report 85-495, 1986, unless otherwise stated.

[2]"Official Methods of Analysis of the Association of Official Analytical Chemists," methods manual, 14th ed. (1985).

[3]For the determination of total metals the sample is not filtered before processing. A digestion procedure is required to solubilize suspended material and to destroy possible organic-metal complexes. Two digestion procedures are given in "Methods for Chemical Analysis of Water and Wastes, 1979." One (Section 4.1.3), is a vigorous digestion using nitric acid. A less vigorous digestion using nitric and hydrochloric acids (Section 4.1.4) is preferred; however, the analyst should be cautioned that this mild digestion may not suffice for all sample types. Particularly, if a colorimetric procedure is to be employed, it is necessary to ensure that all organo-metallic bonds be broken so that the metal is in a reactive state. In those situations, the vigorous digestion is to be preferred making certain that at no time does the sample go to dryness. Samples containing large amounts of organic materials would also benefit by this vigorous digestion. Use of the graphite furnace technique, inductively coupled plasma, as well as determinations for certain elements such as arsenic, the noble metals, mercury, selenium, and titanium require a modified digestion and in all cases the method write-up should be consulted for specific instruction and/or cautions.

NOTE: If the digestion included in one of the other approved references is different than the above, the EPA procedure must be used.

Dissolved metals are defined as those constituents which will pass through a 0.45 micron membrane filter. Following filtration of the sample, the referenced procedure for total metals must be followed. Sample digestion for dissolved metals may be omitted for AA (direct aspiration or graphite furnace) and ICP analyses provided the sample solution to be analyzed meets the following criteria:

a. has a low COD (<20)
b. is visibly transparent with a turbidity measurement of 1 NTU or less.
c. is colorless with no perceptable odor, and
d. is of one liquid phase and free of particulate or suspended matter following acidification.

[4]The full text of Method 200.7, "Inductively Coupled Plasma Atomic Emission Spectrometric Method for Trace Element Analysis of Water and Wastes," is given at Appendix C of this Part 136.
[5]Manual distillation is not required if comparability data on representative effluent samples are on company file to show that this preliminary distillation step is not necessary; however, manual distillation will be required to resolve any controversies.
[6]Ammonia, Automated Electrode Method, Industrial Method Number 379-75 WE, dated February 19, 1976, Technicon AutoAnalyzer II, Technicon Industrial Systems, Tarrytown, NY, 10591.
[7]The approved method is that cited in "Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," USGS TWRI, Book 5, Chapter A1 (1979).
[8]American National Standard on Photographic Processing Effluents, Apr. 2, 1975. Available from ANSI, 1430 Broadway, New York, NY 10018.
[9]"Selected Analytical Methods Approved and Cited by the United States Environmental Protection Agency," Supplement to the Fifteenth Edition of *Standard Methods for the Examination of Water and Wastewater* (1981).
[10]The use of normal and differential pulse voltage ramps to increase sensitivity and resolution is acceptable.
[11]Carbonaceous biochemical oxygen demand ($CBOD_5$) must not be confused with the traditional BOD_5 test which measures "total BOD." The addition of the nitrification inhibitor is not a procedural option, but must be included to report the $CBOD_5$ parameter. A discharger whose permit requires reporting the traditional BOD_5 may not use a nitrification inhibitor in the procedure for reporting the results. Only when a discharger's permit specifically states $CBOD_5$ is required, can the permittee report data using the nitrification inhibitor.
[12]OIC Chemical Oxygen Demand Method, Oceanography International Corporation, 512 West Loop, P.O. Box 2980, College Station, TX 77840.
[13]Chemical Oxygen Demand, Method 8000, Hach Handbook of Water Analysis, 1979, Hach Chemical Company, P.O. Box 389, Loveland, CO 80537.
[14]The back titration method will be used to resolve controversy.
[15]Orion Research Instruction Manual, Residual Chlorine Electrode Model 97-70, 1977, Orion Research Incorporated, 840 Memorial Drive, Cambridge, MA 02138.
[16]The approved method is that cited in *Standard Methods for the Examination of Water and Wastewater*, 14th Edition, 1976.
[17]National Council of the Paper Industry for Air and Stream Improvement, (Inc.) Technical Bulletin 253, December 1971.
[18]Copper, Biocinchoinate Method, Method 8506, Hach Handbook of Water Analysis, 1979, Hach Chemical Company, P.O. Box 389, Loveland, CO 80537.
[19]After the manual distillation is completed, the autoanalyzer manifolds in EPA Methods 335.3 (cyanide) or 420.2 (phenols) are simplified by connecting the re-sample line directly to the sampler. When using the manifold setup shown in Method 335.3, the buffer 6.2 should be replaced with the buffer 7.6 found in Method 335.2.
[20]Hydrogen Ion (pH) Automated Electrode Method, Industrial Method Number 378-75WA, October 1976, Technicon Auto-Analyzer II, Technicon Industrial Systems, Tarrytown, NY 10591.
[21]Iron, 1,10-Phenanthroline Method, Method 8008, 1980, Hach Chemical Company, P.O. Box 389, Loveland, CO 80537.
[22]Manganese, Periodate Oxidation Method, Method 8034, Hach Handbook of Wastewater Analysis, 1979, pages 2-113 and 2-117, Hach Chemical Company, Loveland, CO 80537.
[23]Goerlitz, D., Brown, E., "Methods for Analysis of Organic Substances in Water," U.S. Geological Survey Techniques of Water-Resources Inv., book 5, ch. A3, page 4 (1972).
[24]Nitrogen, Nitrite, Method 8507, Hach Chemical Company, P.O. Box 389, Loveland, CO 80537.
[25]Just prior to distillation, adjust the sulfuric-acid-preserved sample to pH 4 with 1 + 9 NaOH.
[26]The approved method is that cited in *Standard Methods for the Examination of Water and Wastewater*, 14th Edition. The colorimetric reaction is conducted at a pH of 10.0 ± 0.2. The approved methods are given on pp. 576-81 of the 14th Edition: Method 510A for distillation, Method 510B for the manual colorimetric procedure, or Method 510C for the manual spectrophotometric procedure.
[27]R. F. Addison and R. G. Ackman, "Direct Determination of Elemental Phosphorus by Gas-Liquid Chromatography," *Journal of Chromatography*, vol. 47, No. 3, pp. 421-426, 1970.
[28]Approved methods for the analysis of silver in industrial wastewaters at concentrations of 1 mg/L and above are inadequate where silver exists as an inorganic halide. Silver halides such as the bromide and chloride are relatively insoluble in reagents such as nitric acid but are readily soluble in an aqueous buffer of sodium thiosulfate and sodium hydroxide to a pH of 12. Therefore, for levels of silver above 1 mg/L, 20 mL of sample should be diluted to 100 mL by adding 40 mL each of 2 M $Na_2S_2O_3$ and 2M NaOH. Standards should be prepared in the same manner. For levels of silver below 1 mg/L the approved method is satisfactory.
[29]The approved method is that cited in *Standard Methods for the Examination of Water and Wastewater*, 15th Edition.
[30]The approved method is that cited in *Standard Methods for the Examination of Water and Wastewater*, 13th Edition.
[31]Stevens, H. H., Ficke, J. F., and Smoot, G. F., "Water Temperature—Influential Factors, Field Measurement and Data Presentation," U.S. Geological Survey, Techniques of Water Resources Investigations, Book 1, Chapter D1, 1975.
[32]Zinc, Zincon Method, Method 8009, Hach Handbook of Water Analysis, 1979, pages 2-231 and 2-333, Hach Chemical Company, Loveland, CO 80537.

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3. In § 136.3, Table IE is revised to read as follows:

§ 136.3 Identification of test procedures.

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TABLE IE.—LIST OF APPROVED RADIOLOGICAL TEST PROCEDURES

Parameter and units	Methods	EPA [1]	Reference (method No. or page)		
			Standard methods 16th ed.	ASTM	USGS [2]
1. Alpha-Total, pCi per liter	Proportional or scintillation counter	900.0	703	D1943-81	pp. 75 and 78.[3]
2. Alpha-Counting error, pCi per liter	Proportional or scintillation counter	Appendix B	703	D1943-81	p. 79.
3. Beta-Total, pCi per liter	Proportional counter	900.0	703	D1890-81	pp. 75 and 78.[3]
4. Beta-Counting error, pCi	Proportional counter	Appendix B	703	D1890-81	p. 79.
5. (a) Radium-Total, pCi per liter	Proportional counter	903.0	705	D2460-70	
(b) ^{226}Ra, pCi per liter	Scintillation counter	903.1	706	D3454-79	p. 81.

TABLE IE NOTES:
[1] "Prescribed Procedures for Measurement of Radioactivity in Drinking Water," EPA-600/4-80-032 (1980 update), U.S. Environmental Protection Agency, August 1980.
[2] Fishman, M.J. and Brown, Eugene, "Selected Methods of the U.S. Geological Survey of Analysis of Wastewaters," U.S. Geological Survey, Open-File Report 76-177 (1976).
[3] The method found on p. 75 measures only the dissolved portion while the method on p. 78 measures only the suspended portion. Therefore, the two results must be added to obtain the "total."

4. In § 136.3, paragraph (b) is revised to restructure the format for references, sources, and costs to read as follows:

§ 136.3 Identification of test procedures.

* * * * *

(b) The full texts of the methods from the following references which are cited in Tables IA, IB, IC, ID, and IE are incorporated by reference into this regulation and may be obtained from the sources identified. All costs cited are subject to change and must be verified from the indicated sources. The full texts of all the test procedures cited are available for inspection at the Office of the Federal Register, Room 8301, 1110 L Street, NW., Washington, DC 20408.

References, Sources, Costs, and Table Citations:

(1) The full texts of Methods 601–613, 624, 625, 1624, and 1625 are printed in Appendix A of this Part 136. The full text for determining the method detection limit when using the test procedures is given in Appendix B of this Part 136. The full text of Method 200.7 is printed in Appendix C of this Part 136. Cited in: Table IB, Note 4; Table IC, Note 2; and Table ID, Note 2.

(2) "Microbiological Methods for Monitoring the Environment, Water and Wastes," U.S. Environmental Protection Agency, EPA-600/8-78-017, 1978. Available from: ORD Publications, CERI, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268. Table IA, Note 2.

(3) "Methods for Chemical Analysis of Water and Wastes," U.S. Environmental Protection Agency, EPA-600/4-79-020, March, 1979. Available from ORD Publications, CERI, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268. Table IB.

(4) "Methods for Benzidine, Chlorinated Organic Compounds, Pentachlorophenol and Pesticides in Water and Wastewater," U.S. Environmental Protection Agency, 1978. Available from: ORD Publications, CERI, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268. Table IC, Note 3; Table ID, Note 3.

(5) "Prescribed Procedures for Measurement of Radioactivity in Drinking Water," U.S. Environmental Protection Agency, EPA-600/4-80-032, 1980. Available from ORD Publications, CERI, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268. Table IE, Note 1.

(6) *Standard Methods for the Examination of Water and Wastewater*, Joint Editorial Board, American Public Health Association, American Water Works Association, and Water Pollution Control Federation, 16th Edition, 1985. Available from: American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20036. Cost: $90.00. Tables IB and IE.

(7) Ibid, 15th Edition. Table IA; Table IB, note 29; Table ID.

(8) Ibid, 14th Edition. Table IB, Notes 16 and 26.

(9) Ibid, 13th Edition. Table IB, Note 30.

(10) "Selected Analytical Methods Approved and Cited by the United States Environmental Protection Agency," Supplement to the 15th Edition of *Standard Methods for the Examination of Water and Wastewater*, 1981. Available from: American Public Health Association, 1015 Fifteenth Street NW. Washington, DC 20036. Cost available from publisher. Table IB, Note 9; Table IC, Note 6; Table ID, Note 6.

(11) "Annual Book of Standards, section 11, Water," American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. Cost available from publisher. Tables IB, ID, and IE.

(12) "Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples," edited by P.E. Greason, T.A. Ehlke, G.A. Irwin, B.W. Lium, and K.V. Slack, U.S. Geological Survey, Techniques of Water Resources Investigation (USGS TWRI), Book 5, Chapter A4 (1977). Available from: U.S. Geological Survey, Branch of Distribution, 1200 South Eads Street, Arlington, VA 22202. Cost: $9.25 (subject to change). Table IA.

(13) "Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," by M.J. Fishman and Linda C. Friedman; U.S. Geological Survey Open File Report 85-495 (1986). Available from U.S. Geological Survey, Western Distribution Branch, Box 24525, Denver Federal Center, Denver, CO 80225. Cost $108.75 (subject to change). Table IB, Note 1.

(14) "Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," N.W. Skougstad and others, editors. USGS TWRI, Book 5, Chapter A1 (1979). Available from U.S. Geological Survey, Branch of Distribution, 1200 South Eads Street, Arlington, VA 22202. Cost $10.00 (subject to change). Table IB, Note 7.

(15) "Methods for Analysis of Organic Substances in Water," by D.F. Goerlitz and Eugene Brown: USGS TWRI, Book 5, Chapter A3 (1972). Available from U.S. Geological Survey, Branch of Distribution, 1200 South Eads Street, Arlington, VA 22202. Cost $0.90 (subject to change). Table IB, Note 23; Table ID, Note 4.

(16) "Water Temperature—Influential Factors, Field Measurement and Data Presentation," by H.H. Stevens, Jr., J. Ficke, and G.F. Smoot: USGS TWRI Book 1, Chapter D1, 1975. Available from U.S. Geological Survey, Branch of Distribution, 1200 South Eads Street, Arlington, VA 22202. Cost $1.60 (subject to change). Table IB, Note 31.

(17) "Selected Methods of the U.S. Geological Survey of Analysis of Wastewaters," by M.J. Fishman and Eugene Brown: U.S. Geological Survey Open File Report 76-77 (1976). Available from U.S. Geological Survey, Branch of Distribution, 1200 South Eads Street, Arlington, VA 22202. Cost $13.50 (subject to change). Table IE, Note 2.

(18) Official Methods of Analysis of the Association of Official Analytical Chemicals, methods manual, 14th Edition (1985). Price: $145.50. Available from: The Association of Official Analytical Chemicals, 1111 N. 19th Street, Suite 210, Arlington, VA 22209. Table IB, Note 2.

(19) "American National Standard on Photographic Processing Effluents," April 2, 1975. Available from: American National Standards Institute, 1430 Broadway, New York, New York 10018. Table IB, Note 8.

(20) "An Investigation of Improved Procedures for Measurement of Mill Effluent and Receiving Water Color," NCASI Technical Bulletin No. 253, December 1971. Available from: National Council of the Paper

Industry for Air and Stream Improvements, Inc., 260 Madison Avenue. Cost available from publisher. Table IB, Note 17.

(21) Ammonia, Automated Electrode Method, Industrial Method Number 379–75WE, dated February 19, 1976. Technicon AutoAnalyzer II. Method and price available from Technicon Industrial Systems, Tarrytown, New York 10591. Table IB, Note 6.

(22) Chemical Oxygen Demand, Method 8000, Hach Handbook of Water Analysis, 1979. Method and price available from Hach Chemical Company, P.O. Box 389. Loveland, Colorado 80537. Table IB, Note 13.

(23) OIC Chemical Oxygen Demand Method. Method and price available from Oceanography International Corporation, 512 West Loop, P.O. Box 2980, College Station, Texas 77840. Table IB, Note 12.

(24) ORION Research Instruction Manual, Residual Chlorine Electrode Model 97–70, 1977. Method and price available from Orion Research Incorporation, 840 Memorial Drive, Cambridge, Massachusetts 02138. Table IB, Note 15.

(25) Bicinchoninate Method for Copper. Method 8506, Hach Handbook of Water Analysis, 1979, Method and price available from Hach Chemical Company, P.O. Box 300, Loveland, Colorado 80537. Table IB, Note 18.

(26) Hydrogen Ion (pH) Automated Electrode Method, Industrial Method Number 378–75WA. October 1976. Technicon AutoAnalyzer II. Method and price available from Technicon Industrial Systems, Tarrytown, New York 10591. Table IB, Note 20.

(27) 1, 10-Phenanthroline Method for Iron, Hach Method 8008. Method and price available from Hach Chemical Company, P.O. Box 389, Loveland, Colorado 80537. Table IB, Note 21.

(28) Periodate Oxidation Method for Manganese, Method 8034. Hach Handbook for Water Analysis, 1979. Method and price available from Hach Chemical Company, P.O. Box 389, Loveland, Colorado 80537. Table IB, Note 22.

(29) Nitrite Nitrogen, Hach Method 8507. Method and price available from Hach Chemical Company, P.O. Box 389, Loveland, Colorado 80537. Table IB, Note 24.

(30) Zincon Method for Zinc, Method 8009, Hach Handbook for Water Analysis, 1979. Method and price available from Hach Chemical Company, P.O. Box 389, Loveland, Colorado 80537. Table IB, Note 32.

(31) "Direct Determination of Elemental Phosphorus by Gas-Liquid Chromatography," by R.F. Addison and R.G. Ackman, Journal of Chromatography, Volume 47, No. 3, pp. 421–426, 1970. Available in most public libraries. Back volumes of the Journal of Chromatography are available from Elsevier/North-Holland, Inc., Journal Information Centre, 52 Vanderbilt Avenue, New York, NY 10164. Cost available from publisher. Table IB, Note 27.

Appendix A to Part 136—Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater

5. In Method 601, Section 1.1 Table, the next to last entry is revised to read:

Method 601—Purgeable Halocarbons

1. Scope and Application

* * * * *

Parameter	Storet No.	CAS No.
* * * *		
Trichlorofluoromethane	34488	75-69-4
* * * *		

6. In Method 601 Section 12.1 is revised to read as follows (The text of reference 1 remains unchanged):

Method 601—Purgeable Halocarbons

* * * * *

12. Method Performance

12.1 The method detection limit (MDL) is defined as the minimum concentration of a substance that can be measured and reported with 99% confidence that the value is above zero.[1] The MDL concentration listed in Table 1 were obtained using reagent water.[11] Similar results were achieved using representative wastewaters. The MDL actually achieved in a given analysis will vary depending on instrument sensitivity and matrix effects.

7. In Method 601, a new reference 11 is added to read:

Method 601—Purgeable Halocarbons

* * * * *

References

* * * * *

11. Bellar, T. A., Unpublished data, U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268, 1981.

8. In Method 601, Table 3, entry for 1,1-Dichloroethane is revised to read:

Method 601—Purgeable Halocarbons

* * * * *

TABLE 3.—METHOD ACCURACY AND PRECISION AS FUNCTIONS OF CONCENTRATION—METHOD 601.

Parameter	Accuracy as recovery, X' (μg/L)	Single analyst precision, s_r' (μg/L)	Overall precision, S' (μg/L)
* * * * *			
1,1-Dichloroethane	0.95C–1.08	$0.09\bar{X}+0.17$	$0.14\bar{X}+0.94$
* * * * *			

9. In Method 602, Table 3 entries for 1,3-dichlorobenzene and 1,4-dichlorobenzene are revised to read:

Method 602—Purgeable Aromatics

* * * * *

TABLE 3.—METHOD ACCURACY AND PRECISION AS FUNCTIONS OF CONCENTRATION—METHOD 602.

Parameter	Accuracy as recovery, X' (μg/L)	Single analyst precision s_r' (μg/L)	Overall precision, S' (μg/L)
* * * * *			
1,3-Dichlorobenzene	0.96C–0.05	$0.15\bar{X}-0.10$	$0.19\bar{X}+0.09$
1,4-Dichlorobenzene	0.93C–0.09	$0.15\bar{X}+0.28$	$0.20\bar{X}+0.41$
* * * * *			

10. In Method 604, Section 1.3 is revised to read as follows (the text of reference 1 remains unchanged):

Method 604—Phenols

* * * * *

1.3 The method detection limit (MDL, defined in Section 14.1) [1] for each parameter is listed in Table 1. The MDL for a specific wastewater may differ from those listed, depending upon the nature of interferences in the sample matrix. The MDL listed in Table 1 for each parameter was achieved with a flame ionization detector (FID). The MDLs that were achieved when the derivatization cleanup and electron capture detector (ECD) were employed are presented in Table 2.

11. In Method 604, Table 3, entry for 4-chloro-3-methylphenol is revised to read:

In Method 604—Phenols

* * * * *

TABLE 3.—QC ACCEPTANCE CRITERIA—METHOD 604

Parameter	Test conc. (μg/L)	Limit for s (μg/L)	Range for $\bar{X}$ (μ/L)	Range for P,Ps (percent)
4-Choloro-3-methylphenol	100	16.6	56.7–113.4	49–122
* * * * *				

12. In Method 606, Table 3, entry for bis(2-ethylhexyl) phthalate is revised to read:

Method 606—Phthalate Esters

* * * * *

TABLE 3.—METHOD ACCURACY AND PRECISION AS FUNCTIONS OF CONCENTRATION—METHOD 606

Parameter	Accuracy, as recovery, X' (μg/L)	Single analyst precision, (μg/L)	Overall precision, S' (μg/L)
Bis(2-ethylhexyl) phthalate	$0.53C+2.02$	$0.80\bar{X}-2.54$	$0.73\bar{X}-0.17$
* * * * *			

13. In Method 611, Table 3, entry for 4-Bromophenyl phenyl ether is revised to read:

Method 611—Haloethers

* * * * *

TABLE 3.—METHOD ACCURACY AND PRECISION AS FUNCTIONS OF CONCENTRATION—METHOD 611

Parameter	Accuracy, recovery, X' (µg/L)	Single analyst precision, s_r' (µg/L)	Overall precision, S' (µg/L)
*	*	*	*
4-Bromophenyl phenyl ether	0.85C + 2.55	0.25$\bar{X}$ + 0.21	0.47$\bar{X}$ + 0.37
*	*	*	*

14 In Method 624, Table 6, entries for Bromoform and Chloromethane are revised to read:

Method 624—Purgeables

* * * * *

TABLE 6.—METHOD ACCURACY AND PRECISION AS FUNCTIONS OF CONCENTRATION—METHOD 624

Parameter	Accuracy, as recovery, X' (µg/L)	Single analyst precision, s_r' (µg/L)	Overall precision, S' (µg/L)
*	*	*	*
Bromoform	1.18C–2.35	0.12$\bar{X}$ + 0.36	0.17$\bar{X}$ + 1.38
*	*	*	*
Chloromethane	1.03C + 0.81	0.37$\bar{X}$ + 2.14	0.58$\bar{X}$ + 0.43
*	*	*	*

15. In Method 625, Section 2.1, the first sentence is revised to read as follows (the text of reference 2 remains unchanged):

Method 625—Base/Neutrals and Acids

* * * * *

2. Summary of Method

2.1 A measured volume of sample, approximately 1–L, is serially extracted with methylene chloride at a pH greater than 11 and again at a pH less than 2 using a separatory funnel or a continuous extractor.[2]

* * * * *

16. In Method 625, Table 7, entry for 2-methyl-4,6-Dinitrophenol is revised to read:

Method 625—Base/Neutrals and Acids

* * * * *

TABLE 7.—METHOD ACCURACY AND PRECISION AS FUNCTIONS OF CONCENTRATION—METHOD 625

Parameter	Accuracy, as recovery, X' (µg/L)	Single analyst precision, s_r' (µg/L)	Overall precision, S' (µg/L)
*	*	*	*
2-Methyl-1-4,6-Dinitrophenol	1.04C–28.04	0.05$\bar{X}$ + 42.29	0.26$\bar{X}$ + 23.10.
*	*	*	*

17. In Appendix B to part 136, under Reporting, the second paragraph is revised to read:

Appendix B to Part 136—Definition and Procedure for the Determination of the Method Detection Limit—Revision 1.11

* * * * *

Reporting

* * * * *

If the level of analyte in the sample was below the determined MDL or exceeds 10 times the MDL of the analyte in reagent water, do not report a value for the MDL.

18. In Appendix C to Part 136, Section 7.3.1 the heading is revised to read:

Appendix C to Part 136—Inductively Coupled Plasma—Atomic Emission Spectrometric Method for Trace Element Analysis of Water and Wastes

Method 200.7

* * * * *

7. Reagents and Standards

* * * * *

7.3.1 *Aluminum solution, stock,* 1 mL=100 µg Al: * * *

* * * * *

[FR Doc. 86–14588 Filed 6–27–86; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL-3040-9]

Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of information pertaining to a proposed rule.

SUMMARY: EPA is making available additional laboratory performance data for six compounds proposed in the **Federal Register** of October 26, 1984, 49 FR 43437. These data demonstrate the applicability of the proposed Method 1624 to the compounds and may be used to develop acceptance criteria for quality assurance test results.

DATE: Comments on these data must be submitted on or before August 14, 1986.

ADDRESSES: Send comments to Mr. James E. Longbottom, "Proposed 304(h) Guidelines," Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, 26 W. St. Clair Street, Cincinnati, Ohio 45268. The supplemental information is available at this address.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Longbottom at the address above, or call (513) 569-7308.

SUPPLEMENTARY INFORMATION: The **Federal Register** of October 26, 1984, 49 FR 43437, proposed the addition of 32 pollutants for addition to 40 CFR Part 136 with citation to EPA Methods 1624 and 1625. These 32 "Appendix C" pollutants were proposed for inclusion pursuant to paragraph 4(c) and Appendix C of the Consent Decree (NRDC v. Train, 8 ERC 2120 (D.D.C. 1976), as modified 12 ERC 1833 (D.D.C. 1979) and by the Court's Order of October 26, 1982, August 2, 1983, January 6, 1984, July 5, 1984, January 7, 1985, and April 25, 1986).

Acetone, acrolein, acrylonitrile, diethyl ether, p-dioxane, and methyl ethyl ketone were among the pollutants proposed to be covered by Method 1624. No analytical precision information or quality assurance/quality control limits were given for these pollutants. Such information is now being made available. EPA conducted a single-laboratory study of the performance of Method 1624 for these six parameters to derive precision data. EPA has used these data (with modifications to account for the fact that the data is from one laboratory) to derive quality assurance/quality control limits. Precision data, in the form of coefficients of variation (CV), and quality control limits derived from these data and suitable for inclusion in Table 5 of Method 1624 are summarized below:

PRECISION AND CALCULATED QUALITY CONTROL LIMITS FOR METHOD 1624

	Test data concentration		Calculated acceptance criteria at test concentration			
	(μg/L)	CV	S(μg/L)	X(μg/L)	P(Percent)	R(μg/L)
Acetone	100	11.2	51.6	76.9-153.4	35-165	55-145
Acrolein	100	23.1	72.1	31.7-168.3	37-163	7-193
Acrylonitrile	100	5.2	16.4	85.3-116.1	ns-204	79-121
Diethyl ether	100	11.1	44.6	75.0-146.4	44-156	55-145
p-Dioxane	20	11.5	7.2	13.2-26.8	ns-239	11-29
Methyl ethyl ketone	100	14.4	57.2	66.3-158.7	36-164	42-158

The bases for the criteria are presented in the report "Quality Control Criteria for 8 Compounds by Method 1624," Barry Eynon, SRI International, April 10, 1986. This report is available from the Environmental Monitoring and Support Laboratory, address above.

EPA will consider these data and comments in the final rule scheduled for publication later this year.

(**Authority:** Secs. 301, 304(h), 307 and 501(a), Pub. L. 95-217, 91 Stat. 1566, et seq. (33 U.S.C. 1251, et seq.) (the Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977).

Dated: June 18, 1986.

Norbert Jaworski,

Acting Assistant Administrator for Research and Development.

[FR Doc. 86-14589 Filed 6-27-86; 8:45 am]

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federal register

Monday
June 30, 1986

Part V

Environmental Protection Agency

40 CFR Parts 790 and 799

Procedures Governing Testing Consent Agreements and Test Rules Under the Toxic Substances Control Act; Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 790 and 799

[OPTS-42052B; FRL 2976-1]

Procedures Governing Testing Consent Agreements and Test Rules Under the Toxic Substances Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: This interim final rule amends EPA's regulations for developing and implementing testing requirements under section 4 of the Toxic Substances Control Act (TSCA). These amendments: (1) Provide for the use of enforceable consent agreements to require testing where a consensus exists among EPA, affected manufacturers and/or processors, and interested members of the public; and (2) explain how EPA intends to respond to the testing recommendations of the Interagency Testing Committee (ITC) and the steps that the Agency plans to take to evaluate testing candidates and make a preliminary determination of testing needs. The use of consent agreements will supplement the rulemaking process established under TSCA and expedite the development of the data necessary to determine whether chemical substances and mixtures present an unreasonable risk of injury to health or the environment.

DATES: Effective on July 30, 1986. Submit written comments on or before August 29, 1986.

ADDRESS: Submit written comments identified by the document control number (OPTS-42052B) in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M. St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460.

Toll Free: (800-424-9065),
In Washington, D.C.: (554-1404),
Outside the United States: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: This document announces amendments to the procedural regulations in 40 CFR Part 790, which govern the development and implementation of testing requirements under section 4 of the Toxic Substances Control Act (TSCA). The requirements included in these amendments are the outgrowth of a series of meetings between the EPA staff and representatives of the Natural Resources Defense Council (NRDC) and the Chemical Manufacturers Association (CMA) during the spring and summer of 1985. NRDC and CMA assisted EPA in drafting the amendments and endorse their provisions.

The amendments establish procedures for using enforceable consent agreements to require testing under section 4 of the Act. EPA intends to use such consent agreements where a consensus exists among the Agency, affected firms, and interested members of the public about the need for and scope of testing requirements. The Agency believes that, in such circumstances, consent agreements can expedite the initiation of testing and provide safeguards equivalent to those that would apply in the event testing were being conducted pursuant to rule. EPA will continue to invoke the rulemaking procedures specified in the Act in all cases where a consensus does not exist concerning the scope of testing requirements and the Agency believes testing should be required under section 4(a) of the Act.

The amendments also establish procedures for evaluating chemicals under consideration for testing, conducting negotiations and proposing and promulgating test rules. These requirements will help ensure that industry and other interested parties are informed of the steps that EPA will take in the course of reviewing testing candidates and developing testing requirements. The Agency is committed to resolving testing issues expeditiously so that needed testing can begin as soon as possible. These amendments also include the schedule that EPA intends to follow in making testing decisions under TSCA section 4. EPA will list the substances covered by consent agreements in 40 CFR Part 799.

The Interagency Testing Committee (ITC) has independently announced changes in its procedures for making testing recommendations to EPA, which should aid EPA in implementing these amendments. Under section 4(e)(1)(B) of the Act, when the ITC has designated a chemical for action by EPA, the Agency has twelve months either to initiate rulemaking proceedings under section 4(a) or to publish a **Federal Register** notice explaining its reasons for not initiating rulemaking. As explained in its 17th report to the Administrator, published in the **Federal Register** of November 19, 1985 (50 FR 47603), the ITC has created a "recommended with intent-to-designate" category. Under this category, the ITC intends to recommend, but not designate, chemicals that it believes should receive expedited consideration for testing, with an intent to designate the substance or mixture for action at a later time, if deemed necessary by the ITC after a review of additional information.

I. Statutory Background

A major goal of TSCA is to develop test data to determine the effects of chemical substances and mixtures on health and the environment. (TSCA sec. 2(b)(1), 15 U.S.C. 2601(b)(1)). TSCA assigns responsibility for conducting such testing to the manufacturers (including importers) and/or processors of the chemicals involved.

Section 4(a) of the Act, 15 U.S.C. 2603(a), authorizes the Administrator to promulgate rules requiring affected firms to conduct specified tests on chemical substances and mixtures. Before such rules may be promulgated, EPA must make a series of findings identified in section 4(a)(1)(A) and/or (B).

Section 4(b) of the Act requires that each test rule identify the substance or mixture to be tested, specify the studies to be performed, provide standards for the development of test data, and establish deadlines for the submission of test results. Linkages exist between TSCA's testing provisions and other statutory requirements, and thus promulgation of a test rule will trigger certain other provisions of the Act.

Violations of test rules are considered "prohibited acts" under section 15(1) of TSCA. Accordingly, noncompliance with a rule's requirements may give rise to civil and/or criminal penalties under section 16. It may also result in an action to compel adherence to the rule under section 17 or a citizen's enforcement suit under section 20.

Section 4(e) of the Act establishes an Interagency Testing Committee (ITC), composed of representatives from several federal agencies, to assist EPA in identifying chemicals that should receive priority consideration for testing. The statute authorizes the ITC to maintain a list of chemicals that it recommends for testing. The ITC may designate up to 50 of these chemicals at any one time for evaluation by EPA within 12 months of their designation. During the 12-month period following receipt of an ITC designation, EPA must either "initiate a rulemaking proceeding" to require testing or publish a **Federal Register** notice explaining its "reason for not initiating such a proceeding." 15 U.S.C. 2603(e)(1)(B).

II. Development of This Procedural Rule

A. EPA's Use of Negotiated Testing Agreements

During the early years of TSCA's implementation, EPA experienced difficulty in responding to ITC reports in a timely manner. EPA's actions under section 4(e) of the Act were challenged in a suit filed by NRDC, and the court ruled that EPA had failed to discharge its statutory obligation to act on ITC-designated chemicals within 12 months. *NRDC* v. *Costle*, 10 Envtl. L. Rep. (Envtl. L. Inst.) 20274 (S.D.N.Y. Feb. 4, 1980). As a result of the court's ruling, the Agency explored mechanisms for addressing testing issues and initiating needed testing as expeditiously as possible.

Starting in 1979, EPA instituted a procedure of negotiating testing agreements on selected ITC-designated chemicals. On December 6, 1983, NRDC and the AFL–CIO filed suit in the United States District Court for the Southern District of New York to challenge EPA's implementation of TSCA's testing provisions. The plaintiff's claims included an allegation that EPA's use of negotiated testing agreements on ITC-designated chemicals was unlawful because the agreements were voluntary and failed to trigger key statutory provisions applicable to test rules. On August 23, 1984, the District Court held that EPA had failed to discharge its obligations under TSCA by negotiating voluntary testing agreements in lieu of initiating rulemaking on certain chemicals designated by the ITC for priority testing consideration. *NRDC and AFL–CIO* v. *EPA*, 595 F. Supp. 1255 (S.D.N.Y. 1984).

B. Objectives of the EPA–NRDC–CMA Discussions

In March 1985, NRDC and CMA jointly requested an opportunity to meet with EPA representatives to discuss EPA's procedures for developing test data under section 4 of TSCA. An initial meeting of the parties was held on March 28. Thereafter, public meetings were held on April 17, May 13, May 20, and July 19. EPA announced these meetings in the **Federal Register** and established public docket number [OPTS–42069] to contain relevant background materials.

During the meetings, the parties explored the availability of consensual approaches under section 4 that would speed the development of needed data while affording procedural safeguards and protections equivalent to those applicable in the case of test rules. The parties recognized that negotiations could play an important role in resolving testing issues but that significant changes in EPA's procedures for negotiating testing agreements were needed as a result of the District Court decision in *NRDC* v. *EPA*, *supra*. The parties also recognized the importance of expediting final decisions on testing issues, particularly during rulemaking, so that any needed testing could begin promptly.

As discussions progressed, EPA identified certain basic objectives that it believes the section 4 process should seek to achieve. Among them are: (1) To expeditiously initiate necessary testing; (2) to allow for the use of negotiation and consensus-building where they can accelerate the testing process; (3) to permit adequate public participation in the development of testing programs; (4) to assure that testing is performed using scientifically sound protocols and acceptable laboratory practices; (5) to assure that sanctions can be imposed under TSCA's penalty provisions if the agreed-upon testing is not performed, is unjustifiably delayed, or lapses in testing procedure occur; (6) to permit scientific judgment in implementing required testing programs; and (7) to assure, to the maximum extent feasible, that the procedural safeguards embodied in any consensual mechanism for accomplishing testing are equivalent to the protections included in TSCA's rulemaking provisions.

After discussions with CMA and NRDC, EPA has concluded that enforceable consent agreements can achieve the above objectives where a consensus exists among the interested parties concerning the need for and scope of testing. At the same time, EPA recognizes that the development of test data by rule will remain an important element of its section 4 testing program. Such rules, the Agency has determined, will be used to accomplish necessary testing where the parties, for whatever reason, are unable to reach a timely consensus on how an individual testing program should proceed.

III. Rationale for the Major Elements of EPA's Procedural Rule

In accordance with the above objectives, EPA is promulgating procedures for evaluating testing candidates and conducting negotiations to develop consent agreements where appropriate. EPA is also making necessary conforming changes in its procedures for proposing and promulgating test rules in all other cases where testing is necessary. The schedule that EPA intends to follow in making testing decisions is presented in Appendix A to this rule. The establishment of a recommended with intent-to-designate category by the ITC will help to implement the proposed amendments.

The Agency is issuing these procedures as an interim final rule. The Agency believes that it is unnecessary to issue this rule as a proposal because it is procedural in nature. In addition, it is the result of a negotiated agreement with CNA, NRDC, and EPA and extensive public comment has been received in the development of their rule (see Unit II). The Agency is, nevertheless, providing an opportunity for public comment on this rule in the event persons wish to provide comments on these specific procedures. If these comments result in a need for changes to the rule, EPA will modify the rule as appropriate when it issues a final rule.

A. Recommendations With Intent To Designate

Section 4(e) of TSCA requires the ITC to provide EPA with a list of chemicals which the ITC believes should be considered for testing under section 4(a) of the Act. The ITC is empowered to designate chemicals (not to exceed 50 at any one time) for which EPA must, within 12 months, either initiate rulemaking under section 4(a) or publish its reasons for not doing so. In addition, the statute allows the ITC to recommend an unlimited number of chemicals for testing without designating them for EPA action by the 12-month deadline.

Up to now, when the ITC has identified a chemical substance or mixture that it believes should receive expedited consideration for testing, the ITC generally has designated the substance or mixture for action by EPA within 12 months. Because of the 12-month deadline, EPA must set in motion the preparation of a rulemaking proposal soon after receiving an ITC designation. As a result, insufficient time exists for meaningful negotiation and, even where agreement can be reached, the Agency may be forced to initiate rule development activities in the event that negotiation will be unsuccessful. Furthermore, while section 8(a) and 8(d) reports often help to focus and sometimes satisfy the Agency's information needs, they are not received and compiled until 4 months after receipt of the ITC's report. These submissions are therefore frequently unavailable in time to be fully considered in EPA's preliminary judgments about the need for and scope of testing.

The ITC decided to introduce a new procedure, which is announced in its 17th Report, published in the **Federal Register** of November 19, 1985 (50 FR 47603). Under the new procedure,

chemicals that the ITC believes should receive expedited testing consideration may initially be recommended, but not designated, for action by EPA. The ITC report containing these recommendations would include a statement that the ITC intends to designate the substance or mixture for action by EPA at a later date. The ITC's subsequent decision to either designate or not designate the substance would be based on the ITC's review of 8(a) and 8(d) data and other relevant information. After a substance or mixture has been designated, section 4(e)(1)(B) of TSCA would require EPA, within 12 months, either to initiate rulemaking proceedings or publish a statement of its reasons for not initiating such proceedings.

The intent-to-designate procedure will have several advantages. First, EPA will no longer need to negotiate and prepare for rulemaking simultaneously, but can initially focus on negotiation and turn its attention to rulemaking should negotiation prove unproductive. Second, ITC will have access to section 8(a) and 8(d) information to factor into its decision whether to designate a substance or mixture. Third, industry will have incentives to negotiate constructively early in the section 4 process since, in the absence of agreement, negotiations will be terminated and EPA will proceed with rulemaking.

Although the intent-to-designate procedure gives EPA additional time to take action on ITC-designated chemicals, the procedure will ultimately expedite testing decisions and the development of data. As described below, the Agency intends to finalize consent agreements by week 50 following an ITC recommendation if consensus can be achieved. If negotiations fail to produce consensus and rulemaking is required, EPA intends to propose test rules by week 62, and to finalize such rules by week 108. Thus, the net effect of the intent-to-designate procedure should be to accelerate testing decisions and thereby expedite the initiation of testing.

B. Use of Consent Agreements

1. *Value of non-rulemaking approaches.* During its discussions with NRDC and CMA, the Agency was initially uncertain about the best procedural mechanism for implementing agreed-upon testing programs. One possibility that received careful consideration was incorporating negotiation into the rulemaking process with the aim of promulgating an agreed-upon test rule. Upon close study, however, this approach presented a number of problems and ultimately was judged to be less effective than the use of enforceable consent agreements.

First, the statute provides the section 4(a) rules must be supported by a number of findings. There may be instances where the basis for these findings is in dispute even though manufacturers or processors are prepared to conduct testing. Resolution of such disputed issues during the rulemaking process might require considerable effort and could delay testing even though there is underlying agreement on the studies to be conducted.

Second, experience has shown that considerable time may be needed to prepare a rulemaking proposal and support documents, solicit comments, respond to the issues raised by comments, and publish a final rule. Where the parties have agreed on an acceptable testing program, notice-and-comment procedures and extended Agency review may unnecessarily delay the start of testing.

Third, under section 4 of TSCA, test rules will be applicable to all of the manufacturers and/or processors of the test chemical. However, where a consortium of firms is prepared to conduct and finance testing, consent agreements would not have to be signed by all other manufacturers or processors of the test chemical. Thus, it would be possible to proceed with testing on a consensual basis even though one or more firms are unwilling to participate in testing or reimbursement.

Because consent agreements can be finalized more promptly than rules, EPA believes that they represent a more expeditious mechanism for initiating testing while affording equivalent procedural safeguards. EPA will, however, proceed with rulemaking whenever it believes that testing would be required under section 4(a) and negotiations do not achieve a consensus. To assure that the Agency has adequate time to prepare a rulemaking proposal, it will terminate negotiations after 10 weeks unless continued negotiation is likely to result in a draft agreement within an additional 4 weeks. During this additional 4 weeks, EPA must prepare a draft consent agreement that reflects an apparent consensus among the parties. If EPA has not prepared a draft consent agreement embodying an apparent consensus by the end of this 4-week period, EPA will end the negotiations and proceed with rulemaking.

In the event that EPA proceeds with rulemaking, the Agency intends to complete the rulemaking process as expeditiously as possible. As indicated in Appendix A to the procedural rule, EPA intends to publish a rulemaking proposal by week 62 following receipt of an ITC recommendation, and to publish a final rule or a notice terminating the rulemaking proceeding by week 108.

2. *Enforceability of consent agreements.* To serve as a viable alternative to rulemaking, consent agreements must be enforceable on the same basis as test rules. For this reason, § 790.65 of this rule provides that consent agreements requiring testing will be treated as "orders issued under section 4" for purposes of section 15(1) of TSCA, which defines conduct that will be considered a "prohibited act." Under this approach, manufacturers and/or processors who violate consent agreements will be subject to criminal and/or civil liability under section 16 of TSCA. In addition, EPA can invoke the remedies available under section 17 of TSCA, including seeking an injunction to compel adherence to the requirements of the consent agreement. Citizens can also file civil actions to enforce consent agreements as prescribed in section 20 of the Act.

The Act does not specifically address the use of consent agreements to implement consensual testing programs. EPA believes, however, that a sound legal basis exists for invoking TSCA's enforcement provisions against firms that violate consent agreements.

The rulemaking record for this rule contains an analysis of the legal authority for enforcing consent agreements issued under section 4 of TSCA. As this analysis concludes, there is a well-recognized policy in favor of consent orders since they minimize the need for adversary proceedings and conserve the resources of the parties. A consent agreement will normally be upheld in court if it is in the public interest and will further the basic purposes of the relevant statute. In the event one or more provisions of a consent agreement issued under section 4 are determined to be unenforceable by a court, EPA will then either initiate a rulemaking proceeding or publish in the **Federal Register** the Agency's reason for not initiating such a proceeding.

In this instance, EPA believes that consent agreements requiring testing under section 4 will further one of TSCA's basic policies that "adequate data should be developed with respect to the effects of chemical substances and mixtures on health and the environment." Section 2(b)(1) of TSCA, 15 U.S.C. 2601(b)(1). EPA also believes that the safeguards and procedures established by this rule will assure that the development of consent orders is

compatible with the specific objectives of section 4.

One of the fundamental principles governing consent agreements is that parties who voluntarily accept their requirements waive their right to challenge the legal justification for those requirements. In accordance with this principle, § 790.60(a)(3) of the rule provides that each consent agreement requiring testing will contain a provision stating that the signatories to the agreement acknowledge that violations of its requirements will constitute a "prohibited act" under section 15(1) of the Act. In view of this provision, EPA believes that a firm that violates a consent agreement will be held to have waived its right to challenge the Agency's authority to assess penalties.

Because violations of consent agreements will be deemed "prohibited acts" under section 15(1), they will also constitute conduct "in violation of this Act" under section 20(a)(1) of TSCA. Thus, failure to comply with the requirements of a consent agreement could result in a citizens' civil action under section 20(a)(1). Before a court can entertain such an action, however, the other statutory prerequisites for a citizens' suit will have to be satisfied. For example, in accordance with section 20(b)(1), the prospective plaintiff will have to give EPA notice of its intent to sue at least 60 days before filing a complaint, and no suit can be maintained if EPA has commenced and is diligently prosecuting a proceeding to require compliance with the consent agreement under section 16(a)(2).

3. *Public participation in negotiations.* EPA recognizes the importance of adequate public participation in framing a consent agreement's provisions. Accordingly, the procedural rule contains provisions to assure that the views of interested parties are taken into account during the negotiation process.

Under § 790.22, EPA will initiate negotiations by publishing a **Federal Register** notice which invites persons interested in participating in or monitoring negotiations to contact the Agency in writing. The deadline for making such requests will be EPA's "course setting" meeting, which is expected to occur during week 22 following receipt of an ITC report. Individuals and groups who respond to EPA's notice by the date of this meeting will have the status of "interested parties" and will be afforded opportunities to participate in the negotiation process. The rule provides that all negotiating meetings will be open to members of the public, and minutes of each meeting will be prepared by EPA and placed in the public docket. In addition, the Agency will advise interested parties of meeting dates and circulate meeting minutes, testing proposals, background documents and other relevant materials. Finally, where tentative agreement is reached on an acceptable testing program, a draft consent agreement will be made available for comment by interested parties and, if necessary, EPA will hold a public meeting to discuss any comments that have been received. (Please note: EPA will not reimburse costs incurred by nonEPA participants in the consent agreement negotiation process.)

Consent agreements will only be used where a consensus exists concerning the need for and scope of testing. In the absence of consensus, EPA will proceed with rulemaking. The notice-and-comment procedures associated with rulemaking—and the accompanying availability of judicial review under section 19 of TSCA—will provide a suitable vehicle for resolving differences of opinion.

EPA does not intend, however, to give interested parties an open-ended "veto" over draft consent agreements. Such a veto would allow generalized criticisms of a testing program (for example, that the program is "inadequate to evaluate the chemical's health effects") to nullify the results of negotiations and force EPA to initiate rulemaking. To avoid this problem, § 790.24(a)(2) provides that a draft consent agreement negotiated by EPA and affected firms will be rejected only where interested persons participating in the negotiations have submitted timely written objections. In addition, § 790.24(b) of the rule states that EPA may override objections that the Agency concludes (a) are not made in good faith, (b) do not involve the adequacy of the proposed testing program or other features of the agreement that may affect EPA's ability to fulfill the goals and purposes of the Act, or (c) are not accompanied by a specific explanation of the grounds on which the draft agreement is considered objectionable. The Agency's review of objections, should they be submitted, is intended solely to determine whether they meet these criteria. Once objections meet the threshold requirements of this rule, EPA will conclude that no consensus exists and will proceed with rulemaking under section 4(a) of the Act to require such testing as the Agency finds necessary and consistent with the provisions of TSCA.

To facilitate public oversight of EPA's activities under TSCA, each consent agreement will be accompanied by a written explanation of its basis. Under § 790.60(c) of the interim rule, this document will summarize any ITC testing recommendations for the chemical involved, describe the objectives of the testing to be conducted and the rationale for the selection of tests, and briefly outline the use and exposure characteristics of the test chemical. This document, along with notice of the availability of the consent agreement, will be published in the **Federal Register** and, for ITC-designated chemicals, will constitute the statement of EPA's "reason" for not initiating rulemaking required by section 4(e)(1)(B) of the Act.

4. *Other aspects of equivalence between consent agreements and rules.* In addition to providing for enforceability and public participation in the negotiation process, EPA believes that consent agreements must be equivalent to test rules in other respects in order to satisfy the requirements of TSCA. Section 790.60 of the amended procedural rule will accomplish this goal. Among other things, this provision assures that consent agreements contain the following requirements:

a. *Data quality.* Consent agreements will contain: (1) A specification of the technical or commercial grade of the test substance or mixture, (2) standards for the development of test data, (3) a requirement to conduct testing in accordance with EPA's Good Laboratory Practice (GLP) regulations, (4) a requirement to submit a study plan to EPA prior to the initiation of testing, and (5) a provision recognizing EPA's authority to inspect laboratories and audit studies in accordance with the requirements of section 11 of the Act. These provisions will assure that testing conducted under consent agreements is performed using scientifically sound protocols and acceptable laboratory practices.

Section 790.60(b) of the rule provides that the "test standards" included in consent agreements must be modeled on certain well-recognized methodologies for health and environmental effects testing, including the test guidelines developed by EPA under TSCA and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the test guidelines published by the Organization for Economic Cooperation and Development (OECD). It provides further that during the negotiation of consent agreements, EPA will initially propose suitable guidelines as required testing standards; affected firms or other interested parties may then propose alternative methodologies or modifications to these guidelines where

they believe such alternatives would develop more reliable and adequate data on the specific test chemical. This is the same procedure that EPA now uses to establish "standards for the development of data" on substances and mixtures that will be tested by rule. (See Subpart C of 40 CFR Part 790.) Thus, EPA is confident that the methodologies used for testing conducted under consent agreements will be equivalent to those included in test rules promulgated under section 4(a).

b. *Schedules.* Each consent agreement will contain enforceable schedules for initiating testing and submitting interim progress and/or final reports to EPA. Thus, effective mechanisms will exist to assure that test data are developed and reported in a timely manner.

c. *Export notification.* Section 12(b) of TSCA requires persons who export or intend to export certain chemical substances or mixtures to notify the Agency of such export. EPA promulgated regulations interpreting these export notification requirements in 40 CFR Part 707. The export notification requirements are triggered whenever EPA takes certain actions on a substance or mixture. One of these triggering actions is a requirement for the submission of data under section 4 of TSCA. The Agency has recently interpreted the section 12(b) requirements to apply to substances subject to final Phase I test rules, as opposed to proposed section 4 rules. (See Statement of clarification, 49 FR 45581, November 19, 1984.)

For the purposes of TSCA export notification requirements, the Agency considers a final testing consent agreement to be the equivalent of a final section 4 test rule. It is an equivalent data gathering requirement under section 4 of TSCA because it represents the Agency's commitment to proceed with data collection with respect to specific substances. Therefore, the Agency has determined that consent agreements will trigger TSCA section 12(b) export notification requirements. Persons who export or intend to export a substance which is the subject of a final consent agreement will be subject to section 12(b). As with similar actions that trigger section 12(b) (for example a consent order under section 5), export notificaton requirements apply to persons who sign a consent agreement as well as to any other persons who exports or intends to export any substance covered by an agreement.

Each consent agreement will state that the manufacturers and/or processors signing the agreement will comply with the notification requirements of section 12(b) if they export or intend to export a subject substance or mixture. The agreement will cite the regulations codified at 40 CFR Part 707 and will further state that any other person who exports or intends to export a subject substance or mixture is also subject to these export notification requirements.

In the **Federal Register** notice announcing a final consent agreement, the Agency will state that any person who exports or intends to export a substance or mixture covered by the consent agreement is subject to section 12(b) export notification provisions. The notice will specifically refer the reader to regulations codified at 40 CFR Part 707. It will also automatically add the substance(s) to 40 CFR Part 799, Subpart C. See Unit **VI. Modifications to 40 CFR Part 799** of this notice.

These actions will insure proper public notification of this generally applicable export notification requirement. In addition, the Office of Toxic Substances will add the subject chemicals to the list of substances covered by section 12(b). This list is published as part of "A Guide for Chemical Importers/Exporters", available from the OTS TSCA Assistance Office.

d. *Data disclosure.* Each consent agreement will provide that the results of testing will be announced to the public in accordance with the procedures specified in section 4(d) of the Act and that the disclosure of data will be governed by section 14(b) of the Act. Thus, EPA will promptly publish in the **Federal Register** a summary of test data and notice of the availability of such data for public review, as required by section 4(d). In addition, the results of testing will be considered "health and safety studies" under section 14(b), and thus the assertion of confidentiality claims will be limited in accordance with this provision's requirements.

e. *Application of testing requirements to significant new use rules.* Each consent agreement will contain a requirement that, in the event EPA promulgates a significant new use rule (SNUR) applicable to the test chemical under section 5(a)(2), the agreement will have the status of a test rule for purposes of section 5(b)(1)(A). Under section 5(b)(1)(A), if EPA promulgates a SNUR for a chemical under section 5(a)(2) and that chemical is subject to a section 4 test rule, manufacturers and/or processors must submit the test data required by the section 4 test rule at the time they file a SNUR notice under section 5(a)(2). Thus, manufacturers and/or processors subject to a consent agreement will be required to submit the results of testing to EPA at the time they file a SNUR notice under section 5(a)(2).

Manufacturers and/or processors of the test chemical who do not sign the consent agreement will be subject to EPA's SNUR and, accordingly, would be required to submit a SNUR notice before manufacturing or processing the chemical for a significant new use. These notices would not, however, expressly be required to include the data that must be developed under the consent agreement. Nevertheless, in such cases, EPA will issue, when appropriate, others under section 5(e) of the Act to prohibit or restrict the activities described in the SNUR notice pending the development and submission of the test data required under the consent agreement.

f. *Modification of consent agreements.* As in the case of test rules, consent agreements may need to be modified as a result of unforeseen developments which occur while testing is underway. Section 790.68 establishes procedures for making such modifications. Changes in test standards or schedules will be handled in the same manner under both consent agreements and test rules. Except as described here, EPA will seek public comment on all substantive changes in test standards or schedules. Requests for modification of standards or schedules will be acted on without an opportunity for public comment only if: (1) EPA believes that immediate action is necessary to preserve the accuracy or validity of an ongoing study, or (2) EPA determines that the proposed modification clearly does not raise any substantive issues.

A different approach will be followed where the proposed modification involves the scope of the testing program required under a consent agreement. Since this modification will result in the addition or elimination of particular studies, the procedures for its adoption should parallel those used to develop the original consent agreement. Accordingly, EPA will publish a **Federal Register** notice describing the proposed modification and soliciting public comment where, on its own initiative or based upon requests from members of the public, it determines that new issues have been raised that warrant reconsideration of the scope of testing. EPA will thereafter reopen negotiations where, based on the written comments submitted to the Agency, it concludes that there are differences of opinion concerning the proposed changes in the testing program. If a consensus in support of the proposed modification does not exist at the conclusion of negotiations, EPA will initiate

rulemaking where it concludes that more testing than the consent agreement requires is necessary. Normally, the consent agreement will remain in effect while rulemaking proceedings are underway. Where EPA determines that particular tests required by the agreement are or may be unnecessary in view of the requirements of the proposed rule, however, these tests would not have to be performed pending the completion of the rulemaking process.

5. *Compatibility with the district court's decision in NRDC v. EPA.* In the discussions preceding development of this procedural rule, EPA, NRDC, and CMA concluded that the court's decision in *NRDC v. EPA*, 595 F. Supp. 1255 (S.D.N.Y. 1984) did not preclude the use of non-rulemaking mechanisms for requiring testing where they provide safeguards equivalent to those provided by the rulemaking process established by TSCA. The negotiated testing agreements invalidated by the court in that case were not enforceable and failed to trigger certain other TSCA provisions that would take effect upon the issuance of a test rule. In addition, interested parties had less opportunity to participate in the negotiations process than EPA now plans to afford. EPA therefore believes, and NRDC and CMA have agreed, that the use of consent agreements in accordance with this procedural rule is an acceptable method of discharging EPA's obligations under section 4 of TSCA.

C. Schedules for Developing Consent Agreements and Test Rules

One of EPA's main objectives in implementing section 4 of TSCA is the speedy development of data where testing is necessary. To accomplish this objective, it is important to establish an expeditious timetable for the various steps in evaluating testing candidates, beginning and completing negotiations to develop consent agreements where appropriate, and proposing and promulgating test rules in the remaining instances where testing can be required under section 4(a). Such a timetable is therefore included in Appendix A to the procedural rule. Where the deadlines in the schedule are imposed by the statute, they are binding on EPA and will be observed by the Agency. The remaining dates represent targets that EPA intends to meet. This schedule is based on what EPA currently beleives are reasonable target dates. As EPA gains experience with the process and determines the feasibility of these schedules, it may adjust the schedules accordingly. EPA will solicit public comment before implementing any changes in the schedule.

IV. EPA's Use of the Negotiated Consent Agreement Process

When negotiation can promptly lead to a consensus on testing to be performed on a chemical, the initiation of testing and the ultimate availability of test data will be accomplished substantially sooner than if a test rule were developed and promulgated. Therfore, EPA considers the negotiated consent agreement process described in this procedural rule to be appropriate in all cases where the Agency believes that negotiation can be conducted in a timely and efficient manner and has a reasonable likelihood of reaching consensus within the schedule presented in Appendix A to the rule. EPA also must be able to comply with any statutory or court-ordered deadlines for initiating a test rule proceeding should the Agency conclude that testing should be required but negotiations fail to reach a consensus. EPA believes that the above criteria generally will be met for chemical substances and mixtures recommended for testing consideration by the ITC (but without immediate designation for EPA action within 1 year) and for other substances and mixtures that EPA may identify as testing candidates separate from the ITC process. EPA intends to use the negotiation process described in § 790.22(b) of this rule in such cases.

However, EPA reserves the right to proceed directly with a rulemaking proceeding in cases where the Agency believes the above criteria are not met. Such instances may include chemicals designated by the ITC for 1-year response at the time of their initial recommendation, individual substance or mixture testing requirements which EPA believes unlikely to be successfully negotiated based on preliminary discussions with manufacturers and/or processors, and certain types of category or generic test rules for which the number of interested parties and/or their inability to be identified on a chemical-specific basis may make the negotiation procedures described in this rule infeasible or unlikely to yield consensus in a timely manner.

V. Other Modifications to 40 CFR Part 790

In addition to the amendments providing for the use of consent agreements, EPA is making the following modifications to existing provisions of 40 CFR Part 790.

A. Submission of Information

Under submission of information requirements (§ 790.5), EPA is requiring that six copies be provided to EPA for all submissions required under consent agreements or test rules. All submissions should be addressed "Attention: TSCA section 4."

B. Submission of Study Plans

1. Under submission of study plans (§ 790.40), EPA is requiring that study plans be submitted to EPA no later than 45 days before the initiation of each test. This additional time is necessary to allow the Agency sufficient time to arrange for laboratory inspections and data audits.

2. Under submission of study plans (§ 790.40), EPA is requiring the submission of final study plans for tests required under two-phase rules. This requirement allows EPA to obtain revised study plans incorporating the proposed study plans and any modifications adopted in the phase II final rule. The final study plans must be submitted no later than 45 days before the initiation of each test.

VI. Modifications to 40 CFR Part 799

Part 799 of 40 CFR identifies those substances and mixtures that are the subject of TSCA section 4 testing requirements. In this document the Agency is adding two technical, clarifying amendments to Part 799. The first provision is a new § 799.19 Chemical Imports and Exports being added to Subpart A. The purpose of this new section is to notify the reader of the CFR that substances listed in Part 799 are covered by the TSCA section 12(b) regulations regarding export notification. It provides the reader of the CFR with a specific cross reference to Part 707.

The second provision adds a new Subpart C. This new subpart will contain a comprehensive listing by Chemical Abstracts Service (CAS) Registry Number of substances covered by consent testing agreements. The listing will also provide a reference to the **Federal Register** notice regarding such consent agreements. The purpose of this amendment is to aid exporters of chemical substances in identifying those substances for which they have notification obligations. Notices of consent testing agreements will appear in the **Federal Register**. However, there is no mechanism for creating a permanent, comprehensive record of the substances covered by these agreements without the existence of this new subpart.

VII. Rulemaking Record

EPA has established a public record for this rulemaking, docket number [OPTS–42052B], which contains the following information:

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Rule concerning single-phase test rule development and exemption procedures.

(b) Rule concerning two-phase test rule development and exemption procedures.

(2) Communications including:

(a) Written public comments and letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

This record, which includes basic information considered by the Agency in developing this rule and appropriate **Federal Register** notices, is available for inspection in the OPTS Reading Room, Rm. E–107, 401 M St., SW., Washington, DC from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This rule on procedures governing consent agreements and test rules under section 4 of TSCA is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The regulation is a procedural rule.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, will be included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, Sept. 19, 1980), EPA is certifying that this rule will not have a significant impact on a substantial number of small entities.

The procedural amendments described in this rule provide an alternative to rulemaking and are expected to reduce the administrative and financial burden which testing rules might otherwise impose on regulated industries.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2070–0033.

List of Subjects in 40 CFR Parts 790 and 799

Test procedures, Exemptions, Environmental protection, Hazardous substances, Chemicals, Chemical export.

Dated: June 23, 1986.

Lee M. Thomas,

Administrator.

Therefore, 40 CFR Parts 790 and 799 are amended as follows:

1. Part 790 is amended as follows:

a. The authority citation for Part 790 continues to read as follows:

Authority: 15 U.S.C. 2603.

b. By revising the heading for Part 790 to read as follows:

PART 790—PROCEDURES GOVERNING TESTING CONSENT AGREEMENTS AND TEST RULES

c. In Subpart A:

i. Section 790.1 is revised to read as follows:

§ 790.1 Scope, purpose, and authority.

(a) This part establishes procedures for gathering information, conducting negotiations, and developing and implementing test rules or consent agreements on chemical substances and mixtures under section 4 of TSCA.

(b) Section 4 of the Act authorizes EPA to require manufacturers and processors of chemical substances and mixtures to test these chemicals to determine whether they have adverse health or environmental effects. Section 4 (a) empowers the Agency to promulgate rules which require such testing. In addition, EPA has implied authority to enter into enforceable consent agreements requiring testing where they provide procedural safeguards equivalent to those that apply where testing is conducted by rule.

(c) EPA intends to use enforceable consent agreements to accomplish testing where a consensus exists among EPA, affected manufacturers and/or processors, and interested members of the public concerning the need for and scope of testing. If such a consensus does not exist and the Agency believes that it can make the findings specified in section 4(a), EPA will initiate proceedings to promulgate test rules which will be codified in Part 799 of this chapter.

(d) Appendix A to this part presents timetables for various steps in the evaluation of chemicals under consideration for testing, the initiation and completion of negotiations to develop consent agreements, and the proposal and promulgation of test rules. All deadlines which are imposed by the Act are binding on EPA and will be observed by the Agency. The remaining deadlines represent target dates that EPA intends to meet.

ii. Section 790.2 is revised to read as follows:

§ 790.2 Applicability.

This part is applicable to manufacturers and processors of chemical substances or mixtures who are subject to the testing requirements of a consent agreement or a rule under section 4(a) of the Act. The procedures for test rules are applicable to each test rule in Part 799 or this Chapter unless otherwise stated in specific test rules in Part 799 of this Chapter.

iii. Section 790.3 is amended by revising the definition for "sponsor" to read as follows:

§ 790.3 Definitions.

* * * * *

"Sponsor" means the person or persons who design, direct and finance the testing of a substance or mixture.

* * * * *

iv. Section 790.5 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 790.5 Submission of information.

(a) All submissions to EPA under this part must bear the Code of Federal Regulations (CFR) section number of the subject chemical test rule, e.g., § 799.4400 1,1,1-Trichloroethane, or indicate the identity of the consent agreement. For all submissions under this part, six copies must be provided to EPA.

(b) Submissions containing confidential business information must be addressed to:

Attention: TSCA Section 4,
Document Control Office (TS–793),
Office of Pesticides and Toxic Substances,
Environmental Protection Agency,
Rm. E–201,
401 M St., SW.,
Washington, DC 20460.

(c) Submissions not containing confidential business information must be addressed to:

Attention: TSCA Section 4,
TSCA Public Information Office (TS–793)
Office of Pesticides and Toxic Substances,
Environmental Protection Agency,
Rm. E–108,
401 M. St., SW.,

Washington, DC 20460.

* * * * *

[Approved by the Office of Management and Budget under control No. 2070-0033]

v. Section 790.7 is amended by revising paragraph (a) and the introductory text of paragraph (c) to read as follows:

§ 790.7 Confidentiality.

(a) Any person subject to the requirements of a consent agreement or a test rule under section 4 of the Act may assert a claim of confidentiality for certain information submitted to EPA in response to the consent agreement or the test rule. Any information claimed as confidential will be treated in accordance with the procedures in Part 2 of this title and section 14 of the Act. Failure to assert a claim of confidentiality at the time the information is submitted will result in the information being made available to the public without further notice to the submitter.

* * * * *

(c) If a person asserts a claim of confidentiality for study plan information described in §§ 790.50(c)(1)(iii)(D), (iv), (v), and (vi) and 790.62(b)(6), (7), (8), (9), and (10), the person must provide a detailed written substantiation of the claim by answering the questions in this paragraph. Failure to provide written substantiation at the time the study plan information is submitted will be considered a waiver of the claim of confidentiality, and the study plan information will be disclosed to the public without further notice.

* * * * *

d. In Subpart B:

i. By redesignating existing Subpart B as Subpart C and revising the heading to read as follows:

Subpart C—Implementation, Enforcement, and Modification of Test Rules

ii. By redesignating §§ 790.20, 790.22, 790.25, 790.28, 790.30, 790.32, 790.35, and 790.39 as §§ 790.40, 790.42, 790.45, 790.48, 790.50, 790.52, 790.55, and 790.59, respectively, and changing all references throughout the part accordingly.

iii. Section 790.40 is amended by revising paragraph (a) to read as follows:

§ 790.40 Promulgation of test rules.

(a) If EPA determines that it is necessary to test a chemical substance or mixture by rule under section 4 of the Act, it will promulgate a test rule in Part 799 of this chapter.

* * * * *

iv. Section 790.50 is amended by revising paragraph (a) (1) and (2) to read as follows:

§ 790.50 Submission of study plans.

(a) *Who must submit study plans.* (1) Persons who notify EPA of their intent to conduct tests in compliance with the requirements of a single-phase rule as described in § 790.40(b)(1) must submit study plans for those tests no later than 45 days before the initiation of each of these tests.

(2) Persons who notify EPA of their intent to conduct tests in compliance with the requirements of a Phase I test rule as described in § 790.40(b)(2) must submit the following:

(i) Proposed study plans for those tests must be submitted on or before 90 days after the effective date of the Phase I rule; or, for processors complying with the notice described in § 790.40(b)(2), 90 days after the publication date of that notice; or 60 days after the date manufacture or processing begins as described in § 790.45(d), as appropriate; and

(ii) Final study plans for those tests must be submitted no later than 45 days before the initiation of each of those tests.

* * * * *

[Approved by the Office of Management and Budget under control no. 2070-0033]

v. By adding a new Subpart B, to read as follows:

Subpart B—Procedures for Developing Consent Agreements and Test Rules

Sec.

790.20 Recommendation and designation of testing candidates by the ITC.
790.22 Procedures for gathering information and negotiating consent agreements on chemicals which the ITC has recommended for testing with an intent to designate.
790.24 Criteria for determining whether a consensus exists concerning the provisions of a draft consent agreement.
790.26 Initiation and completion of rulemaking proceedings on ITC-designated chemicals.
790.28 Procedures for developing consent agreements and/or test rules for chemicals that have not been designated or recommended with intent to designate by the ITC.

Subpart B—Procedures for Developing Consent Agreements and Test Rules

§ 790.20 Recommendation and designation of testing candidates by the ITC.

(a) *Recommendations with intent to designate.* The ITC has advised EPA that it will discharge its responsibilities under section 4(e) of the Act in the following manner:

(1) When the ITC identifies a chemical substance or mixture that it believes should receive expedited consideration by EPA for testing, the ITC may add the substance or mixture to its list of chemicals recommended for testing and include a statement that the ITC intends to designate the substance or mixture for action by EPA in accordance with section 4(e)(1)(B) of the Act.

(2) Chemical substances or mixtures selected for expedited review under paragraph (a)(1) of this section may, at a later time, be designated for EPA action within 12 months of such designation. The ITC's subsequent decision would be based on the ITC's review of TSCA sections 8(a) and 8(d) data and other relevant information.

(3) Where the ITC concludes that a substance or mixture warrants testing consideration but that expedited EPA review of testing needs is not justified, the ITC will add the substance or mixture to its list of testing recommendations without expressing an intent to designate the substance or mixture for EPA action in accordance with section 4(e)(1)(B) of the Act.

(4) The ITC reserves its right to designate any chemical that it determines the Agency should, within 12 months of the data first designated, initiate a proceeding under section 4(a) of the Act.

(b) *EPA consideration of ITC recommendations.* (1) Where a substance or mixture is designated for EPA action under section 4(e)(1)(B) of the Act, the Agency will take either one of the following actions within 12 months after receiving the ITC designation:

(i) Initiate rulemaking proceedings under section 4(a) of the Act.

(ii) Publish a **Federal Register** notice explaining the Agency's reasons for not initiating such rulemaking proceedings. EPA may conclude that rulemaking proceedings under section 4(a) of the Act are unnecessary if it determines that the findings specified in section 4(a) of the Act cannot be made or if the Agency has entered into a consent agreement requiring testing in accordance with the provisions of this Subpart.

(2) Where a substance or mixture has been recommended for testing by the ITC without an intent to designate, EPA will use its best efforts to act on the ITC's recommendations as rapidly as possible consistent with its other priorities and responsiblities. EPA may respond to the ITC's recommendations either by:

(i) Initiating rulemaking proceedings under section 4(a) of the Act.

(ii) Publishing a **Federal Register** notice explaining the Agency's reasons for concluding that testing is unnecessary.

(iii) Entering into a consent agreement in accordance with this Subpart.

§ 790.22 Procedures for gathering information and negotiating consent agreements on chemicals which the ITC has recommended for testing with an intent to designate.

(a) *Preliminary EPA evaluation.* Following receipt of an ITC report containing a recommendation with an intent to designate, EPA will use the following procedure for completing a preliminary evaluation of testing needs.

Appendix A to this Part presents the schedule that EPA intends to follow for this purpose.

(1) EPA will publish the ITC report in the **Federal Register** and announce that interested persons have 30 days to submit comments on the ITC's testing recommendations.

(2) EPA will publish a **Federal Register** notice adding all ITC-recommended chemicals to the automatic reporting provisions of its rules under sections 8(a) and 8(d) of the Act (40 CFR Parts 712 and 716).

(3) EPA will hold a public "focus meeting" to discuss the ITC's testing recommendations and obtain comments and information from interested parties.

(4) EPA will evaluate submissions received under the sections 8(a) and 8(d) reporting requirements, comments filed on the ITC's recommendations, and other information and data compiled by the Agency.

(5) EPA will make a preliminary staff determination of the need for testing and, where testing appears warranted, will tentatively select the studies to be performed.

(6) EPA will hold a public meeting to announce its preliminary testing determinations.

(b) *Negotiation procedures for consent agreements.* Where EPA believes that testing is necessary, the Agency will explore whether a consent agreement can be negotiated that satisfies the testing needs identified by the Agency. EPA will use the following procedures for negotiating, formulating and accepting consent agreements. Appendix A to this Part presents the schedule that EPA intends to follow for this purpose.

(1) In the **Federal Register** notice described in paragraph (a)(1) of this section, EPA will explain its procedures and timetable for negotiating consent agreements and invite persons interested in participating in or monitoring negotiations to contact the Agency in writing.

(2) Persons who respond to EPA's notice by the announced date of the Agency's course-setting meeting will be deemed "interested parties" for purposes of any negotiations that EPA conducts.

(3) Following the course-setting meeting announcing EPA's preliminary testing determinations, the Agency will meet with manufacturers, processors and other interested parties for the purpose of attempting to negotiate a consent agreement. To facilitate attendance at these meetings, EPA will contact all interested parties who have expressed a desire to participate in or monitor negotiations under paragraph (b)(2) of this section and advise them of meeting dates.

(4) All negotiating meetings will be open to members of the public. The minutes of each meeting will be prepared by EPA. Meeting minutes, testing proposals, background documents and other materials exchanged at or prepared for negotiating meetings will be included in the public file established by EPA on each ITC-recommended chemical. Materials in this file will be made available for inspection in the OPTS Reading Room during EPA working hours.

(5) While negotiations are underway, EPA will promptly circulate meeting minutes, testing proposals, correspondence and other relevant materials to interested parties who expressed a desire to participate in or monitor negotiations pursuant to paragraph (b)(2) of this section.

(6) As negotiations progress, EPA will make a tentative decision either to proceed with formulation of a consent agreement or to initiate rulemaking. EPA will terminate negotiations after 10 weeks and proceed with rulemaking unless negotiations are likely to result in a draft consent agreement within 4 additional weeks. By the end of this 4-week period, EPA either will have prepared a draft consent agreement reflecting the apparent consensus of the parties or will terminate negotiations and proceed with rulemaking. If EPA decides to proceed with rulemaking, no further opportunity for negotiations will be provided. EPA will promptly send written notice to all interested parties of the termination of negotiations.

(7) Where EPA prepares a draft consent agreement, it will be circulated for comment to all interested parties who expressed a desire to participate in or monitor negotiations under paragraph (b)(2) of this section. A period of 4 weeks will be provided for submitting comments or written objections under § 790.24(a).

(8) If necessary, EPA will hold a public meeting to discuss comments on the draft consent agreement and to determine whether revisions in the agreement are appropriate.

(9) Where a consensus exists concerning the contents of a draft consent agreement, it will be circulated to EPA management and interested parties for final approval and signature.

(10) Upon final approval of a consent agreement, EPA will public a **Federal Register** notice that summarizes the agreement, describes the ITC recommendations for the test substance, outlines the chemical's use and exposure characteristics, and explains the background, objectives and rationale of the testing to be conducted, and codifies in subpart C of Part 799 the name of the substance(s) to be tested and the citation to the **Federal Register** notice of the agreement.

§ 790.24 Criteria for determining whether a consensus exists concerning the provisions of a draft consent agreement.

(a) EPA will enter into consent agreements only where there is a consensus among the Agency, one or more manufacturers and/or processors who agree to conduct or sponsor the testing, and all other interested parties who identify themselves in accordance with § 790.22(b)(2). EPA will not enter into a consent agreement in either of the following circumstances:

(1) EPA and affected manufacturers and/or processors cannot reach a consensus on the testing requirements or other provisions to be included in the consent agreement.

(2) A draft consent agreement is considered inadequate by other interested parties who, pursuant to § 790.22(b)(2), have asked to participate in or monitor negotiations; and these parties have submitted timely written objections to the draft consent agreement which provide a specific explanation of the grounds on which the draft agreement is objectionable.

(b) EPA may reject objections described in paragraph (a)(2) of this section only where the Agency concludes the objections are either:

(1) Not made in good faith.

(2) Untimely.

(3) Do not involve the adequacy of the proposed testing program or other features of the agreement that may affect EPA's ability to fulfill the goals and purposes of the Act.

(4) Not accompanied by a specific explanation of the grounds on which the

draft agreement is considered objectionable.

(c) The unwillingness of some manufacturers and/or processors of a prospective test chemical to sign the draft consent agreement does not, in itself, establish a lack of consensus if EPA concludes that those manufacturers and/or processors who are prepared to sign the agreement are capable of accomplishing the testing to be required and that the draft agreement will achieve the purposes of the Act in all other respects.

§ 790.26 Initiation and completion of rulemaking proceedings on ITC-designated chemicals.

(a) Where EPA concludes that a consensus does not exist concerning the provisions of a draft consent agreement and that the findings specified by section 4(a) can be made, the Agency will proceed with rulemaking under section 4(a) of TSCA.

(b) When EPA decides to proceed with rulemaking under paragraph (a) of this section, the Agency intends to publish a rulemaking proposal and a final rule or a notice terminating the rulemaking proceeding in accordance with the schedule specified in Appendix A to this Part.

(c) Where the testing recommendations of the ITC raise unusually complex and novel issues that require additional Agency review and opportunity for public comment, the Agency may publish an Advance Notice of Proposed Rulemaking (ANPR). The schedule that EPA intends to follow for rulemaking proceedings initiated by publication of an ANPR is presented in Appendix A to this Part.

§ 790.28 Procedures for developing consent agreements and/or test rules for chemicals that have not been designated or recommended with intent to designate by the ITC.

(a) Where EPA believes that testing is needed, it may also develop consent agreements and/or test rules on chemical substances or mixtures that either:

(1) Have been recommended but not "recommended with intent to designate" by the ITC.

(2) Have been selected for testing consideration by EPA on its own initiative.

(b) When EPA wishes to initiate negotiations concerning chemicals described in paragraph (a) of this section, it will publish a **Federal Register** notice describing its tentative evaluation of testing needs, announcing a date for a public course-setting meeting, and inviting persons interested in participating in or monitoring negotiations to contact the Agency in writing. Any negotiations that EPA conducts will conform to the procedures specified in § 790.22(b) and, to the extent feasible, will follow the schedules presented in Appendix A to this Part.

(c) EPA will enter into consent agreements on chemicals described in paragraph (a) of this section only if there is a consensus among EPA, affected manufacturers and/or processors, and any other persons who have asked to participate in or monitor negotiations. In determining whether such a consensus exists, EPA will employ the criteria specified in § 790.24. In the absence of consensus, EPA will initiate rulemaking if it concludes that the findings specified in section 4(a) of the Act can be made. The schedule for initiating and completing such rulemaking proceedings will, to the extent feasible, follow the schedule specified in Appendix A to this Part.

* * * * * *

e. By adding Subpart D, to read as follows:

Subpart D—Implementation, Enforcement and Modification of Consent Agreements

Sec.
790.60 Contents of consent agreements.
790.62 Submission of study plans and conduct of testing.
790.65 Failure to comply with a consent agreement.
790.68 Modification of consent agreements.

Subpart D—Implementation, Enforcement and Modification of Consent Agreements

§ 790.60 Contents of consent agreements.

(a) *Standard provisions.* All consent agreements will contain the following provisions:

(1) Identification of the chemical(s) to be tested.

(2) The health effects, environmental effects and/or other characteristics for which testing will be required.

(3) The names and addresses of each manufacturer and/or processor who will sign the agreement.

(4) The name and address of the manufacturer, processor or other entity who has agreed to act as the principal test sponsor.

(5) The technical or commercial grade, level of purity or other characteristics of the test substances(s) or mixture(s).

(6) Standards for the development of test data.

(7) A requirement that testing will be conducted in accordance with the EPA Good Laboratory Practice (GLP) regulations (40 CFR Part 792).

(8) Schedules with reasonable timetables and deadlines for initiating testing and submitting interim progress and/or final reports to EPA.

(9) A requirement that the principal sponsor will submit a study plan to EPA in accordance with § 790.62.

(10) A statement that the results of testing conducted pursuant to the consent agreement will be announced to the public in accordance with the procedures specified in section 4(d) of the Act and that the disclosure of data generated by such testing will be governed by section 14(b) of the Act.

(11) A requirement that the manufacturers and/or processors signing the consent agreement will comply with the notification requirements of section 12(b)(1) of the Act and Part 707 of this Chapter if they export or intend to export the substance or mixture for which the submission of data is required under the agreement and a statement that any other person who exports or intends to export such substance or mixture is subject to the above cited export notification requirements.

(12) A requirement that, in the event EPA promulgates a significant new use rule applicable to the test chemical under section 5(a)(2), the consent agreement will have the status of a test rule for purposes of section 5(b)(1)(A) and manufacturers and/or processors signing the agreement will comply with the data submission requirements imposed by that provision.

(13) A statement that each manufacturer and/or processor signing the agreement agrees that violation of its requirements will constitute a "prohibited act" under section 15(1) of the Act and will trigger all provisions of TSCA applicable to a violation of section 15.

(14) A statement that, in the event one or more provisions of the agreement are determined to be unenforceable by a court, the remainder of the agreement would not be presumed to be valid and EPA will then either initiate a rulemaking proceeding or publish in the **Federal Register** the Administrator's reason for not initiating such a proceeding.

(15) A statement that the Agency may conduct laboratory inspections and/or study audits of the testing being conducted pursuant to the consent agreement in accordance with the authority and procedures contained in section 11 of the Act.

(16) A statement that EPA acceptance of a consent agreement constitutes "final agency action" for purposes of 5 U.S.C. 704.

(17) Any other requirements that the parties agree are necessary to achieve the purposes of the Act.

(b) *Contents of standards for the development of data.* The standards for the development of the data included in consent agreements will be based on the TSCA test guidelines in 40 CFR Parts 796, 797, and 798, the Organization for Economic Cooperation and Development (OECD) test guidelines, the EPA pesticide assessment guidelines published by The National Technical Information Service (NTIS), or other suitable test methodologies. During the negotiation of consent agreements, EPA will initially propose suitable test guidelines as the required test standards; manufacturers and processors or other interested parties may then suggest alternative methodologies or modifications to the Agency's proposed guidelines. These alternative methodologies or modifications will be adopted only where, in the judgment of EPA, they will develop at least equally reliable and adequate data on the chemical substance or mixture subject to the agreement.

(c) *Statement of rationale for consent agreement.* EPA will prepare a written explanation of the basis for each consent agreement. This document will summarize the agreement, describe any ITC testing recommendations for the chemical involved, outline the chemical's use and exposure characteristics, and explain the objectives of the testing to be conducted and the rationale for the specific studies selected. This document will be published in the **Federal Register** and, for ITC-designated chemicals, will constitute the statement of EPA's reasons for not initiating rulemaking required by section 4(e)(1)(B) of the Act.

§ 790.62 Submission of study plans and conduct of testing.

(a) *Timing of submission.* The principal sponsor of testing conducted pursuant to a consent agreement shall submit a study plan no later than 45 days prior to the initiation of testing. The Agency may grant requests for additional time to submit study plans on a case-by-case basis. Requests for additional time for study plan development must be made in writing to the Director, Office of Compliance Monitoring (EN-342), Office of Pesticides and Toxic Substances, EPA, 401 M Street, SW., Washington, DC 20460. Each extension request must demonstrate why the extension should be granted. EPA will notify the submitter by certified mail of the Agency's decision to grant or deny any extension request. Extensions of time for submission of study plans granted by EPA will not relieve manufacturers and/or processors of the obligation to meet the consent agreement's schedule for initiating testing and submitting interim and/or final reports.

(b) *Content of study plans.* All study plans are required to contain the following information:

(1) Identity of the consent agreement under which testing will be performed.

(2) The specific test requirements to be covered by the study plan.

(3) The name and address of the principal test sponsor.

(4) The names, addresses, and telephone numbers of the responsible administrative official[s] and project manager[s] in the principal sponsor's organization.

(5) The names, addresses, and telephone numbers of the technical contacts at each manufacturer and/or processor subject to the agreement.

(6) The names and addresses of the testing facilities responsible for the testing and the names, addresses, and telephone numbers of the administrative officials[s] and project manager[s] assigned to oversee the testing program at these facilities.

(7) Brief summaries of the training and experience of each professional involved in the study, including study director, veterinarian[s], toxicologist[s], pathologist[s], chemist[s], microbiologist[s], and laboratory assistants.

(8) Identity and supporting data on the chemical substance[s] being tested, including physical constants, spectral data, chemical analysis, and stability under test and storage conditions, as appropriate.

(9) Study protocol, including rationale for species/strain/sex selection; dose selection (and supporting data); route[s] or method[s] and form[s] and duration of exposure; description of diet to be used and its source, including nutrients and contaminants and their concentrations; description of the controls; for *in vitro* test systems, a description of culture medium and its source; and a summary of expected spontaneous chronic diseases (including tumors), genealogy, and life span.

(10) A schedule, with reasonable timeables and deadlines, for initiation and completion of each short-term test and of each major phases of long-term tests, and submission of interim progress and/or final reports to EPA.

(c) *Review and modification.* (1) Upon receipt of a study plan, EPA will review it to determine whether it complies with paragraph (b) of this section and the consent agreement. If EPA determines that the study plan does not comply with paragraph (b) of this section, EPA will notify the submitter that the submission is incomplete and will identify the deficiencies and the steps necessary to complete the submission.

(2) The submitter will have 15 days after the day it receives a notice under paragraph (c)(1) of this section to submit appropriate information to make the study plan complete.

(3) If the submitter fails to provide appropriate information to complete a study plan within 15 days after having received a notice under paragraph (c)(1) of this section, the submitter will be considered to be in violation of the consent agreement and subject to enforcement proceedings pursuant to § 790.65 (c) and (d).

(d) *Functions of the principal test sponsor.* When testing is being conducted pursuant to a consent agreement, the principal test sponsor will be responsible for submitting interim progress and final reports to EPA, informing the Agency of any proposed changes in standards for the development of data, study plans or testing schedules, and communicating with the Agency about laboratory inspections and other matters affecting the progress of testing.

§ 790.65 Failure to comply with a consent agreement.

(a) Manufacturers and/or processors who have signed a consent agreement and who fail to comply with the test requirements, test standards, GLP regulations, schedules, or other provisions contained in the consent agreement, or in modifications to the agreement adopted pursuant to § 790.68, will be in violation of the consent agreement.

(b) The Agency considers failure to comply with any aspect of a consent agreement to be a "prohibited act" under section 15 of TSCA, subject to all of the provisions of the Act applicable to violations of section 15. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Consent agreements adopted pursuant to this part are "orders issued under section 4" for purposes of section 15(1) of TSCA.

(c) Manufacturers and/or processors who violate consent agreements are subject to criminal and/or civil liability. Under the penalty provisions of section 16 of TSCA, such firms could be subject to a civil penalty of up to $25,000 per violation with each day in violation constituting a separate violation of section 15. Intentional violations could

lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. In addition, EPA could invoke the remedies available under section 17 of TSCA, including seeking an injunction to compel adherence to the requirements of the consent agreement.

(d) Noncompliance with a consent agreement will constitute conduct "in violation of this Act" under section 20(a)(1) of TSCA. Thus, failure to comply with the requirements of a consent agreement could result in a citizens' civil action under section 20(a)(1) of TSCA.

§ 790.68 Modification of consent agreements.

(a) *Changes in the scope of testing.* (1) Manufacturers or processors subject to a consent agreement, other persons or EPA may seek modifications in the scope of testing performed under the consent agreement. If, upon receiving a request for modification, EPA determines that new issues have been raised that warrant reconsideration of the scope of testing, or if EPA determines on its own that such reconsideration is appropriate, EPA will publish a **Federal Register** notice describing the proposed modification and soliciting public comment. If, based on the comments received, EPA concludes that differences of opinion may exist about the proposed modification, EPA will establish a schedule for conducting negotiations and invite parties who wish to participate in or monitor these negotiations to contact the Agency in writing. Any negotiations that EPA conducts will conform to the procedures specified in § 790.22(b).

(2) The scope of testing required by a consent agreement will be modified only where there is a consensus concerning the modified testing requirements among EPA, affected manufacturers and/or processors, and other persons who have asked to participate in or monitor negotiations under paragraph (a)(1) of this section. In determining whether a consensus exists, EPA will employ the criteria specified in § 790.24. In the absence of consensus, EPA may initiate rulemaking under section 4(a) of the Act if it concludes that any testing beyond that required by the consent agreement is necessary and that the other statutory findings required by section 4(a) can be made. While such rulemaking proceedings are underway, the consent agreement will remain in effect unless EPA finds that the testing required by the agreement is or may be unnecessary in view of the testing requirements included in EPA's proposed rule.

(b) *Changes in test standards or schedules.* (1) Any test sponsor who wishes to modify the test standards or schedules for any test required under a consent agreement must submit an application in accordance with this subsection. Applications for modification must be made in writing to the Director, Office of Compliance Monitoring (EN-342), Office of Pesticides and Toxic Substances, EPA, 401 M Street, SW., Washington, DC 20460, or by phone, with written confirmation to follow within 10 working days. Applications must include an appropriate explanation of why the modification is necessary.

(2) EPA will seek public comment on all substantive changes in test standards and schedules. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications. However, EPA will act on the requested modification without seeking public comment if either:

(i) EPA believes that an immediate modification to a test standard or schedule is necessary to preserve the accuracy or validity of an ongoing study.

(ii) EPA determines that a modification clearly does not pose any substantive issues.

(3) EPA will notify the sponsor of EPA's approval or disapproval. When EPA approves a modification, the parties will enter into a modified consent agreement. EPA will publish a notice in the **Federal Register** announcing that the test standard or schedule has been modified, describing the nature of the modification.

f. By revising the heading of Subpart E, to read as follows:

Subpart E—Exemptions From Test Rules

g. By adding Appendix A to Subpart E, to read as follows:

Appendix A to Subpart E—Schedule for Developing Consent Agreements and Test Rules

EPA intends to follow the schedule set forth in this Appendix to evaluate testing candidates, conduct negotiations, develop consent agreements where appropriate, and propose and promulate test rules in those instances where testing can be required under section 4(a) of TSCA but agreement cannot be reached in timely manner on a consent agreement. Where deadlines are imposed by the statute, they are binding on EPA and will be observed by the Agency. The remaining dates represent targets that EPA intends to meet.

This schedule is based on what EPA currently believes are reasonable target dates. As EPA gains experience with the process and determines the feasibility of these schedules, it may adjust the schedule accordingly. EPA will solicit public comment before implementing any changes in the schedule.

Week [1]	Event
0	Receive ITC report, recommendation.
2	Publish ITC report, 8(a) & 8(d) notices, and invitation for public participation in negotiations.
3-6	Comment period on ITC report.
6	Public focus meeting.
7-14	8(a) and 8(d) reporting period.
22	Public meeting on course-setting decision and deadline for requests to participate in negotiations.
22-30	Negotiations.
32	EPA decision point: consent agreement or test rule.

[1] The dates contained in the left-hand column are calculated from the date EPA receives the ITC report recommending a chemical for testing.

Week	Consent Agreement	Week	Test Rule
36-40	Comment period on consent agreement	32-60	Rule preparation, agency review and sign-off.
42	Comment resolution meeting if necessary	62	Publish proposed rule in **Federal Register**.[1]
48	Sign-off consent agreement and **Federal Register** notice	70-106	Agency reviews comments; preparation of final rule or no-test decision, agency review and sign-off.[1]
50	Publish **Federal Register** notice	108	Publish final rule or no-test decisoin in **Federal Register**.[1]

[1] As stated in § 790.26, EPA may publish an Advance Notice of Proposed Rulemaking (ANPR) where the testing recommendations of the ITC raise unusually novel and complex issues that require additional Agency review and opportunity for public comment. EPA intends to publish such ANPRs by Week 62 following receipt of the initial ITC report; to publish a proposed rule or decision-not-to-test by Week 108; and to publish a final rule or notice terminating the rulemaking process by Week 154.

PART 799—[AMENDED]

2. Part 799 is amended as follows:

a. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding § 799.19 to Subpart A, to read as follows:

§ 799.19 Chemical imports and exports.

Persons who export or who intend to export substances listed in Subpart B or Subpart C of this part are subject to the requirements of Part 707 of this title.

c. By adding and reserving Subpart C as follows:

Subpart C—Consent Testing Agreements [Reserved]

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H.J. Res. 652/Pub. L. 99–345

To provide for the temporary extension of certain programs relating to housing and community development, and for other purposes. (June 24, 1986; 100 Stat. 673; 1 page) Price: $1.00

CFR CHECKLIST

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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.