

1-8-87  
Vol. 52 No. 5  
Pages 661-754

Thursday  
January 8, 1987

# Federal Register

**Briefings on How To Use the Federal Register—**  
For information on briefings in Washington, DC, Portland, OR,  
Los Angeles, CA, and San Diego, CA, see announcement on the  
inside cover of this issue.



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## THE FEDERAL REGISTER

### WHAT IT IS AND HOW TO USE IT

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

### WASHINGTON, DC

- WHEN:** January 29; at 9 am.
- WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
- RESERVATIONS:** Mildred Isler 202-523-3517

### PORTLAND, OR

- WHEN:** February 17; at 9 am.
- WHERE:** Bonneville Power Administration Auditorium, 1002 N.E. Holladay Street, Portland, OR.
- RESERVATIONS:** Call the Portland Federal Information Center on the following local numbers:
- |          |              |
|----------|--------------|
| Portland | 503-221-2222 |
| Seattle  | 206-442-0570 |
| Tacoma   | 206-383-5230 |

### LOS ANGELES, CA

- WHEN:** February 18; at 1:30 pm.
- WHERE:** Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, CA.
- RESERVATIONS:** Call the Los Angeles Federal Information Center, 213-894-3800

### SAN DIEGO, CA

- WHEN:** February 20; at 9 am.
- WHERE:** Room 2S31, Federal Building, 880 Front Street, San Diego, CA.
- RESERVATIONS:** Call the San Diego Federal Information Center, 619-293-6030

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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 103

#### Powers and Duties of Service Officers; Availability of Service Records

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** This final rule adds Regional Service Center Directors to the list of Service officers having authority to certify their decisions to the designated appellate authority. The delegation of this authority will improve the management efficiency of Service programs.

**EFFECTIVE DATE:** January 8, 1987.

#### FOR FURTHER INFORMATION CONTACT:

For general information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633-3048

For specific information: Lloyd W. Sutherland, Sr., Immigration, Examiner, Immigration and Naturalization, Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633-3946

**SUPPLEMENTARY INFORMATION:** Regional commissioners, district directors and officers in charge in Districts 33, 35, and 37 now have authority to certify their decisions to the appropriate appellate authority. On October 3, 1985 (50 FR 40327) Title 8 of the Code of Federal Regulations, § 103.1(S) was amended to extend signature authority to directors of regional service centers.

This change merely extends the authority of service center directors to include the right to certify their

decisions to the appropriate appellate authority.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary as this rule relates to agency organization and management.

In accordance with 5 U.S.C. 605(b) the Commissioner of Immigration and Naturalization certifies that this rule does not have significant economic impact on a substantial number of small entities. This is not a rule within the definition of section 1(a) of E.O. 12291 as it relates to agency organization and management.

#### List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies).

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

#### PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for Part 103 continues to read as follows:

**Authority:** Sec. 103 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103; 31 U.S.C. 9701; OMB Circular A-25.

2. Section 103.4 is revised to read as follows:

#### § 103.4 Certifications.

The Commissioner or the Deputy Commissioner may direct that any case or classes of cases be certified for decision. Regional commissioners, district directors, regional service center directors, and officers in charge in Districts 33, 35, and 37 may certify their decisions to the appellate authority designated in this chapter when the case involves an unusually complex or novel question of law or fact. The party affected shall be given notice on Form I-290C of such certification and of the right to submit a brief within 10 days from receipt of the notice. Cases within the appellate jurisdiction of the Service shall be certified only after an initial decision has been made. Decisions for which no appeal procedure exists may be certified to the Commissioner in the same manner as decisions over which the Commissioner holds appellate authority. In cases within § 3.1(b) of this chapter, the decision of the officer to whom certified, whether made initially

or upon review, shall constitute the base decision of the Service from which an appeal may be taken to the Board in accordance with the applicable parts of this chapter. The decision of the Service officer to whom the case has been certified shall be in writing and a copy thereof shall be served upon the applicant, petitioner, or other party affected, or the attorney or representative of record.

Dated: December 30, 1986.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 87-333 Filed 1-7-87; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 97

[Docket No. 25167; Amdt. No. 1337]

#### Standard Instrument Approach Procedures; Miscellaneous Amendments

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

**ACTION:** Final rule.

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

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

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

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

**For Examination—**

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

**For Purchase—**

Individual SIAP copies may be obtained from:

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

**By Subscription—**

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

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

The larger number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the *Federal Register* expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the

affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

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

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

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

**List of Subjects in 14 CFR Part 97**

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on December 26, 1986.

John S. Kern,  
Director of Flight Standards.

**Adoption of the Amendment**

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

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

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

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

... Effective March 12, 1987

- Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, VOR/DME RWY 12, Amdt. 6  
 Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, VOR RWY 30, Amdt. 10  
 Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, NDB RWY 23, Amdt. 3  
 Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, ILS RWY 23, Amdt. 3  
 Thief River Falls, MN—Thief River Falls Regional, ILS RWY 31, Amdt. 1

... Effective February 12, 1987

- Andreafsky/St. Marys, AK—St. Marys, NDB RWY 16, Amdt. 3, CANCELLED  
 Andreafsky/St. Marys, AK—St. Marys, NDB/DME RWY 16, Amdt. 3, CANCELLED  
 Andreafsky/St. Marys, AK—St. Marys, NDB RWY 34, Amdt. 2, CANCELLED  
 Andreafsky/St. Marys, AK—St. Marys, ILS/DME RWY 16, Amdt. 3, CANCELLED  
 St. Marys, AK—St. Marys, LOC/DME RWY 16, Orig  
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 Sacramento, CA—Sacramento Metropolitan, NDB RWY 34, Amdt. 3  
 Fort Lauderdale, FL—Ft Lauderdale-Hollywood Intl, LOC RWY 9R, Amdt. 2  
 Fort Lauderdale, FL—Ft Lauderdale-Hollywood Intl, NDB RWY 13, Amdt. 14



Fort Lauderdale, FL—Ft Lauderdale-Hollywood Intl, ILS RWY 9L, Amdt. 12

Fort Lauderdale, FL—Ft Lauderdale-Hollywood Intl, ILS RWY 27R, Amdt. 3

Sarasota (Bradenton), FL—Sarasota-Bradenton, RADAR-1, Amdt. 5

Miami, FL—Miami Intl, VOR 12, Amdt. 27

Miami, FL—Miami Intl, VOR RWY 30, Amdt. 6

Miami, FL—Miami Intl, NDB RWY 9R, Amdt. 1

Miami, FL—Miami Intl, NDB RWY 27L, Amdt. 17

Miami, FL—Miami Intl, ILS RWY 9L, Amdt. 27

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Miami, FL—Miami Intl, RNAV RWY 9L, Amdt. 9

Miami, FL—Miami Intl, RNAV RWY 27R, Amdt. 5

Miami, FL—Tamiami, NDB RWY 9R, Amdt. 7

Miami, FL—Tamiami, ILS RWY 9R, Amdt. 6

Twin Falls, ID—Twin Falls-Sun Valley Regional Joslin Field, NDB RWY 25, Amdt. 5

Twin Falls, ID—Twin Falls-Sun Valley Regional Joslin Field, ILS RWY 25, Amdt. 6

Battle Creek, MI—W.K. Kellogg Regional, VOR or TACAN RWY 5, Amdt. 18

Battle Creek, MI—W.K. Kellogg Regional, VOR or TACAN RWY 23, Amdt. 16

Battle Creek, MI—W.K. Kellogg Regional, VOR or TACAN RWY 31, Amdt. 13

Battle Creek, MI—W.K. Kellogg Regional, NDB RWY 23, Amdt. 16

Battle Creek, MI—W.K. Kellogg Regional, ILS RWY 23, Amdt. 16

Battle Creek, MI—W.K. Kellogg Regional, RADAR-1, Amdt. 1

Greenville, MI—Greenville Muni, VOR/DME A, Orig

Atlantic City, NJ—Atlantic City, ILS RWY 13, Amdt. 3

Battle Mountain, NV—Lander County, VOR-A Amdt. 3

Battle Mountain, NV—Lander County, VOR/DME RWY 3, Amdt. 4

Las Vegas, NV—McCarran Intl, VOR RWY 25, Amdt. 11

Raton, NM—Crews Field, VOR/DME RWY 2, Amdt. 5

Duncan, OK—Halliburton Field, VOR RWY 35, Amdt. 8

Duncan, OK—Halliburton Field, LOC BC RWY 17, Amdt. 2

Duncan, OK—Halliburton Field, VOR RWY 35, Amdt. 2

Pauls Valley, OK—Pauls Valley Muni, NDB RWY 35, Orig

Astoria, OR—Port of Astoria, COPTER LOC/DME 255, Orig

Klamath Falls, OR—Kingsley Field, VOR-B, Amdt. 2

Klamath Falls, OR—Kingsley Field, VOR/DME or TACAN RWY 14, Amdt. 1

Klamath Falls, OR—Kingsley Field, VOR/DME or TACAN RWY 32, Amdt. 1

Klamath Falls, OR—Kingsley Field, NDB-A, Amdt. 4, CANCELLED

Klamath Falls, OR—Kingsley Field, NDB RWY 32, Orig

Klamath Falls, OR—Kingsley Field, ILS RWY 32, Amdt. 18

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San Antonio, TX—San Antonio Intl, VOR RWY 21, Amdt. 1, CANCELLED

Temple, TX—Draughon-Miller Muni, VOR RWY 15, Amdt. 14

Temple, TX—Draughon-Miller Muni, VOR RWY 33, Orig

Temple, TX—Draughon-Miller Muni, LOC/DME BC RWY 33, Amdt. 1

Temple, TX—Draughon-Miller Muni, ILS RWY 15, Amdt. 8

Winters, TX—Winters Muni, NDB RWY 35, Orig, CANCELLED

Winters, TX—Winters Muni, NDB RWY 35, Orig

Bellingham, WA—Bellingham Intl, ILS RWY 16, Amdt. 2

... Effective December 22, 1986

Akron, OH—Akron-Canton Regional, ILS RWY 23, Amdt. 7

... Effective December 18, 1986

Oakdale, CA—Oakdale, VOR RWY 10, Amdt. 4

Pueblo, CO—Pueblo Memorial, RADAR-1, Amdt. 6

St. Louis, MO—Lambert-St. Louis Intl, ILS RWY 12R, Amdt. 19

Akron, OH—Akron-Canton Regional, RADAR-1, Amdt. 18

Lancaster, OH—Fairfield County, RNAV RWY 10, Amdt. 5

... Effective December 11, 1986

Tacoma, WA—Tacoma Narrows, ILS RWY 17, Amdt. 6.

[FR Doc. 87-311 Filed 1-7-87; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 15 CFR Parts 372 and 386

[Docket No. 60983-6183]

#### Clarification of Regulatory Provisions on Shipping Tolerances

**AGENCY:** Export Administration, International Trade Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** Commodities intended for export from the United States are licensed by Export Administration in terms of dollar value, in terms of number of units, or in terms of weight or measure. In certain cases, a shipping tolerance is allowed on the unshipped balance of a commodity or on the total dollar value shown on an export license.

This rule, which neither expands nor limits the provisions of the Export Administration Regulations, revises § 386.7 pertaining to shipping tolerances and how they are calculated. This revision is done solely for the sake of clarity and simplified language. In

addition, paragraph (c) of § 372.9, which treats the way commodities are listed on an export license (which, in turn, affects the shipping tolerance), is also revised for the sake of clarity.

**EFFECTIVE DATE:** This rule is effective January 8, 1987.

**FOR FURTHER INFORMATION CONTACT:** Patricia Muldonian or John Black, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377-2440.

#### 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, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, 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 mentions collections of information subject to the requirements of the Paperwork Reduction Act of 1980, (44 U.S.C. 3501 et seq.). These collections have been approved by the Office of Management and Budget under

control numbers 0625-0001 and 0625-0003.

#### List of Subjects in 15 CFR Parts 372 and 386

Exports, Reporting and recordkeeping requirements.

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

#### PART 372—[AMENDED]

1. The authority citation for Part 372 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).

2. Paragraph (c) of § 372.9 is revised to read as follows:

#### § 372.9 Issuance of validated licenses.

(c) *Quantity of commodities authorized for export.* (1) Commodities licensed in terms of quantity. Commodities intended for export are licensed in terms of the specific unit of quantity given in the "Unit" paragraph of the CCL entry covering those particular commodities. When a unit of quantity is given in the "Unit" paragraph, that unit of quantity *must* be entered on the license. For example, commodities covered by 1648A must be reported in "lbs."

(2) Commodities licensed in terms of dollar value. If the unit of quantity given in the "Unit" paragraph of the applicable CCL entry is "\$ value", the commodities are licensed in terms of the total dollar value shown on the license. For example, commodities covered by entry 1527A must be reported in "\$ value". However, when a commodity is licensed in terms of total dollar value, Export Administration requires that the unit of quantity commonly used in the trade also be shown on the license application. If the application is approved, that same terminology may appear on the license; nevertheless, the quantity of the commodities authorized for export is limited *entirely* by the total dollar value shown on the license.

#### PART 386—[AMENDED]

3. The authority citation for Part 386 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), as affected by notice of September 4, 1986 (51 31925, September 8, 1986).

4. Section 386.7 is revised to read as follows:

#### § 386.7 Shipping tolerance.

A shipping tolerance is sometimes allowed on the unshipped balance of a commodity or on the total dollar value as shown on the export license, depending on whether the commodities are licensed in terms of dollar value, in terms of "number" of units, or in terms of weight or measure. Such tolerances apply *only* to the "Unit" specified in the applicable entry of the Commodity Control List; they do *not* apply to other units of quantity or measure that may appear on the validated license.

(a) *Commodity licensed by dollar value.* There is no shipping tolerance on commodities licensed by dollar value. When the "Unit" paragraph of a CCL entry reads "Report in '\$ value'", commodities covered by that entry are licensed in terms of dollar value only, and the dollar value may not be exceeded—for example, see ECCN 1510A.

(b) *Commodities licensed by number of units.* When the "Unit" paragraph of a CCL entry reads "Report in 'number'", commodities covered by that entry are licensed in terms of the number of units—for example, see ECCN 1505A. There is no shipping tolerance on an increase in the number of units; however, there *is* a shipping tolerance of up to 25% of the dollar value for those commodities. This tolerance is allowed against the original total dollar value shown on the license.

(c) *Commodities licensed by weight or measure.* (1) When the specific unit of quantity given in the "Unit" paragraph of a CCL entry is in "lbs.", "sq. ft.", or another unit of weight or measure,—for example, ECCNs 1702A or 1754A—commodities covered by that entry have a shipping tolerance of 10% on the *unshipped* balance of the licensed weight or measure, *unless*—

(i) There is a specific limitation on the tolerance set forth on the face of the validated license, or

(ii) A smaller tolerance has been established for commodities under short supply control, *i.e.*, as listed in a Supplement to Part 377.

(2) In addition to the 10% tolerance on the unshipped balance, commodities licensed by weight or measure also have a 25% tolerance on the *total* dollar value shown on the license.

(d) *Tolerance inapplicable after total shipment.* When the quantity (or total price, if applicable) stated on the license has been shipped, no additional

tolerance is authorized and no further shipment may be made under that license.

(e) *Examples of shipping tolerances.* (1) A validated license authorizes the export of 100,000 pounds of a commodity covered by entry 1746A on the Commodity Control List, the total cost of which is \$1,000,000—

(i) If one shipment is made, the quantity that may be exported may not exceed 110,000 pounds (10% tolerance on the unshipped balance), and the total cost of that one shipment may not exceed \$1,250,000—

\$1,000,000	(the total value shown on the license)
+ 250,000	(25% of the total value shown on the license)
<hr/>	
\$1,250,000	

(ii) If the first shipment is for 40,000 pounds, the second shipment may not exceed 10% of the unshipped balance of 60,000 pounds, *i.e.*, 66,000 pounds, and the total cost of the second shipment shall not exceed \$850,000—

\$600,000	(the value of the unshipped balance of 60,000 pounds)
+ 250,000	(25% of the original total value shown on the license)
<hr/>	
\$850,000	

(iii) If the first shipment is for 40,000 pounds and the second shipment is for 20,000 pounds, the third shipment may not exceed 10% of the unshipped balance of 40,000 pounds, *i.e.*, 44,000 pounds, and the total cost of the third shipment shall not exceed \$650,000—

\$400,000	(the value of the unshipped balance of 40,000 pounds)
+ 250,000	25% of the original total value on the license)
<hr/>	
\$650,000	

(2) A validated license authorizes the export of certain commodities covered by entry 1485A on the Commodity Control List, the total cost of which is \$5,000,000; there is no shipping tolerance on any export of commodities covered by 1485A because such commodities are licensed in terms of dollar value only (see the "Unit" paragraph of that CCL entry).

(3) A validated license authorizes the export of 10 pieces of equipment covered by entry 1110A with a total value of \$10,000,000 and the export of parts and accessories covered by that same entry valued at \$1,000,000—

(i) If one shipment is made, the quantity of equipment that may be exported may not exceed 10 pieces of equipment because there is no shipping tolerance on the "number" of units. That one shipment of equipment may not exceed \$12,500,000—

\$10,000,000	(the total value shown on the license)
+ 2,500,000	(25% of the total value shown on the license)
<hr/>	
\$12,500,000	

If the one shipment includes parts and accessories, those parts and accessories may not exceed \$1,000,000 because there is no shipping tolerance on any commodity licensed in terms of dollar value.

(ii) If the first shipment is for 4 pieces of equipment valued at \$4,000,000, the second shipment may not exceed 6 pieces of equipment (no tolerance on "number") valued at no more than \$8,500,000—

\$6,000,000	(the value of the unshipped 6 pieces)
+ 2,500,000	(25% of the original total value shown on the license)
<hr/>	
\$8,500,000	

If the first shipment includes \$300,000 of parts and accessories, the second shipment may not exceed \$700,000 of parts and accessories because there is no shipping tolerance on any commodity licensed in terms of dollar value.

(iii) If the first shipment is for 4 pieces of equipment valued at \$4,000,000 and the second shipment is for 3 pieces of equipment valued at \$3,000,000, the third shipment may not exceed 3 pieces of equipment (no tolerance on "number") valued at no more than \$5,500,000—

\$3,000,000	(the value of the unshipped 3 pieces)
+ 2,500,000	(25% of the original total value shown on the license)
<hr/>	
\$5,500,000	

If the first shipment includes \$300,000 of parts and accessories and the second shipment includes another \$300,000, the third shipment may not exceed \$400,000 because there is no shipping tolerance on commodities licensed in terms of dollar value.

(f) *Amending export licenses.* If the increase in the dollar value, number, weight or other measure of the shipped commodities exceeds the allowable tolerances, see § 372.11 on how to amend an export license.

Dated: January 5, 1987.  
 Vincent F. DeCain,  
 Deputy Assistant Secretary for Export  
 Administration.  
 [FR Doc. 87-391 Filed 1-7-87; 8:45 am]  
 BILLING CODE 3510-DT-M

### 15 CFR Part 399

[Docket No. 60856-6156]

#### G-COM Eligibility: Amendments to the Commodity Control List

**AGENCY:** Export Administration, International Trade Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** On September 23, 1985, Export Administration published in the *Federal Register* (50 FR 38312) a final rule establishing a new General License G-COM, authorizing exports to countries participating in COCOM, the system of strategic export controls maintained by the United States and certain allied countries.

This rule, which neither expands nor limits the provisions of that rule, makes editorial amendments to some of the "G-COM Eligibility" paragraphs for certain entries on the Commodity Control List (CCL), a listing of those items subject to Department of Commerce export controls.

First, "G-COM Eligibility" paragraph for several CCL entries is amended to clarify that the eligible commodities are described only in the Advisory Note for exports to Country Groups QWY.

Second, the "G-COM Eligibility" paragraph for other CCL entries is amended to clarify the intent of the regulations that a commodity is eligible for G-COM licensing if it meets technical performance characteristics described in any, rather than all, of the Advisory Notes identifying eligible commodities.

Third, the "G-COM Eligibility" paragraph for two entries (1754A and 1755A) is amended to eliminate the reference to "Advisory Notes 1 and 2". These entries contain only one Advisory Note.

Finally, G-COM eligibility is extended to those commodities described in any of three "Advisory Notes" in entry 1567A of the CCL. The eligibility of items covered by these Advisory Notes was inadvertently omitted from the September 23, 1985 *Federal Register* notice establishing the General License G-COM. The three Advisory Notes cover PABXs, data (message) switching, and telegraph circuit switching. Their inclusion in G-COM eligibility will not

adversely affect U.S. national security interests.

**EFFECTIVE DATE:** This rule is effective January 8, 1987.

**FOR FURTHER INFORMATION CONTACT:** Patricia Muldonian or John Black, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377-2440.

#### 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, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, 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 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, Reporting and recordkeeping requirements.

**PART 399—[AMENDED]**

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are 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) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986).

**§ 399.1 [Amended]**

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), the phrase "the Advisory Note" is revised to read "the Advisory Note for Country Groups QWY" in the *G-COM Eligibility* paragraph for the following entries:

a. 1312A, 1353A, and 1355A in Commodity Group 3, General Industrial Equipment;

b. 1531A and 1568A in Commodity Group 5, Electronics and Precision Instruments; and

c. 1767A in Commodity Group 7, Chemicals, Metalloids, Petroleum Products and Related Materials.

3. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), the following amendments are made in the *G-COM Eligibility* paragraph of the following entries:

a. In ECCN 1501A, the word "and" appearing after "4" and before "6" is revised to read "or";

b. In ECCN 1510A, the word "and" appearing after "6" and before "7" is revised to read "or";

c. In ECCN 1519A, the word "and" appearing after "3" and before "4" is revised to read "or";

d. In ECCNs 1520A and 1537A, the reference to "Advisory Notes 1 through 5" is revised to read "Advisory Note 1, 2, 3, 4, or 5";

e. In ECCN 1522A, the word "and" appearing after "4" and before "6" is revised to read "or";

f. In ECCN 1526A, the word "and" appearing after "4" and before "5" is revised to read "or";

g. In ECCNs 1529A and 1564A, the word "and" appearing after "2" and before "3" is revised to read "or";

h. In ECCN 1555A, the word "and"

appearing after "2" and before "4" is revised to read "or";

i. In ECCN 1565A, the word "and" appearing after "7" and before "9" is revised to read "or"; and

j. In ECCN 1572A, the word "and" appearing after "6" and before "7" is revised to read "or".

4. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products, and Related Materials), the *G-COM Eligibility* paragraphs for ECCNs 1754A and 1755A are amended by revising the phrase "Advisory Notes 1 and 2" to read "the Advisory Note".

5. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1567A is amended by adding a new paragraph after the *Special Licenses Available* paragraph, reading as follows:

"*G-COM Eligibility:* Commodities that meet technical specification described in Advisory Notes 2, 3, 4 or 5 under this entry, regardless of end-use, subject to the prohibitions contained in 371.2(c)."

Dated: January 5, 1987.

**Vincent F. DeCain,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 87–392 Filed 1–7–87; 8:45 am]

BILLING CODE 3510-DT-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Part 520****Oral Dosage Form New Animal Drugs Not Subject to Certification; Acepromazine Maleate Tablets**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Bolar Pharmaceutical Co., Inc., providing for safe and effective use of acepromazine maleate tablets for dogs as an aid in tranquilization and as a preanesthetic agent.

**EFFECTIVE DATE:** January 8, 1987.

**FOR FURTHER INFORMATION CONTACT:** Marcia K. Larkins, Center for Veterinary Medicine (HFV-112), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

**SUPPLEMENTARY INFORMATION:** Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiague, NY 11726, filed NADA 135–299 providing for use of 10- and 25-milligram acepromazine maleate tablets as an aid in tranquilization and as a preanesthetic agent for dogs. The NADA is approved and 21 CFR 520.23(a)(2) is revised to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

**List of Subjects in 21 CFR Part 520**

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

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

1. The authority citation for 21 CFR Part 520 continues to read as follows:

**Authority:** Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.38.

**§ 520.23 [Amended]**

2. In § 520.23 by revising paragraph (a)(2) to read "For Nos. 000725 and 013983, use of 10- or 25-milligram tablets as in paragraph (c) of this section."

Dated: December 30, 1986.

**Gerald B. Guest,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 87–326 Filed 1–7–86; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19, 25, 240, 250, 270, 275, and 285

[T.D. ATF-246]

## Establishment of Fourteen-Day Deferral Period for Payment of Tax on Alcohol and Tobacco Products

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, Final rule.

**SUMMARY:** This rule implements section 8011 of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-509, which prescribes, in part, a 14-day deferral period for the payment of tax on alcohol and tobacco products, both imported and domestic. If the last day for payment falls on a Saturday, Sunday or legal holiday, the time for filing a return will be the immediately preceding day which was not a Saturday, Sunday or legal holiday.

The new law applies to imported products and products brought into the United States after December 15, 1986. With respect to domestic products, the 14-day deferral period applies to taxes covering return periods ending on or after December 31, 1986. A special rule is established for distilled spirits and tobacco taxes for the return period ending December 15, 1986.

**DATE:** Effective January 8, 1987.

Amendments of 27 CFR 19.523(a)(2), 250.112(f), 270.165(b), and 275.114(b) apply to tax remittances covering return periods ending on December 15, 1986.

Amendments of 27 CFR 19.523(a)(1), 25.164, 240.591, 250.112(e), 270.165 (a) and (c), 275.114 (a), (c), and (d), and 285.25 apply to tax remittances covering return periods ending on and after December 31, 1986.

Amendments of 27 CFR 275.81, 275.85, 275.86, 275.101, and 275.135 apply to tobacco articles imported, entered for warehousing, or brought into the United States or a foreign trade zone prior to December 16, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Nancy Cook or Dick Langford, Distilled Spirits and Tobacco Branch (202) 566-7531, or John Linthicum, FAA, Wine and Beer Branch (202) 566-7626, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226.

**SUPPLEMENTARY INFORMATION:****Deferral Periods**

Section 8011 of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-

509 establishes a uniform tax deferral period of 14 days after the last day of the semimonthly return period for alcohol and tobacco tax remittances. Prior to establishment of the 14-day deferral period by the new law, specific deferral periods were prescribed by statute for distilled spirits and tobacco products. The semimonthly deferred payment system was established by regulation for wine, beer, and alcohol or tobacco products brought into the United States from Puerto Rico. In addition, the previous regulations for cigarette papers and tubes established a monthly tax return system, rather than a semimonthly system. The new law establishes the semimonthly system for cigarette papers and tubes, as established for other tobacco products.

**Saturday, Sunday or Holiday**

The new law establishes a special rule for alcohol and tobacco tax payments when the day for payment falls on a Saturday, Sunday or legal holiday. Under 26 U.S.C. 7503, the general rule for all kinds of taxes is: if the day for payment falls on a Saturday, Sunday or legal holiday, the time for filing a return is extended to the immediately *succeeding* day which was not a Saturday, Sunday or legal holiday. Under the new special rule for alcohol and tobacco tax payments: if the 14th day after the last day of the semimonthly return period falls on a Saturday, Sunday or legal holiday, the return is due on the immediately *preceding* day which is not a Saturday, Sunday or legal holiday.

**Special Rule for Distilled Spirits and Tobacco Taxes.**—The new law establishes a special rule for distilled spirits and tobacco taxes for the return period ending December 15, 1986. The remittance for these taxes will be due on January 14, 1987. Wine and beer taxes for the return period ending December 15, 1986 are not affected by this rule and will be due on December 31, 1986.

**Imported Products**

The new law applies the same deferral periods to imported products and products brought into the United States from Puerto Rico or the Virgin Islands, if those products were imported, entered for warehousing, or brought into the United States or a foreign trade zone after December 15, 1986. A special rule is also established for products entered into a customs bonded warehouse (CBW). The new law provides that alcohol and tobacco products entered for warehousing are subject to tax payment upon removal from the first CBW into which they were entered. (A foreign trade zone is treated as a CBW for the purposes of this requirement.)

The new import provisions do not apply to bulk distilled spirits transferred to internal revenue bond under 26 U.S.C. 5232.

In conjunction with the amendments described above, the new law specifically removes a tobacco manufacturer's privilege of removing imported tobacco products or cigarette papers or tubes from customs custody for transfer to the manufacturer's bonded premises without payment of the internal revenue tax, unless the products were imported or brought into the United States prior to December 16, 1986. A manufacturer may continue to remove from customs custody without payment of the internal revenue tax any articles which were made in the United States, exported, and subsequently returned to the United States. A tobacco export warehouse proprietor may continue to remove imported articles from customs custody solely for the purpose of storage pending exportation.

The U.S. Customs Service will issue rules to implement the new import provisions.

**Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

**Executive Order 12291**

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" because the economic effects flow directly from the underlying statute, the Omnibus Budget Reconciliation Act of 1986, and not from this rule. Therefore, it is found that this rule will not result in:

(a) An annual effect on the economy of \$100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or

(c) Significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

**Paperwork Reduction Act**

The requirement to file a tax return has been previously approved by the Office of Management and Budget under Control Number 1512-0467. The change in the tax deferral period does not alter the paperwork burden.

**Administrative Procedure Act**

Because this Treasury decision merely implements specifically prescribed statutory tax deferral periods for alcohol and tobacco products, and because immediate guidance is necessary to implement the new tax deferral periods, it is found to be unnecessary and impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

**Drafting Information**

The principal author of this document is John Linthicum of the FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

**List of Subjects****27 CFR Part 19**

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

**27 CFR Part 25**

Administrative practice and procedure, Authority delegations, Beer, Claims, Electronic fund transfers, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds, Transportation.

**27 CFR Part 240**

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Transportation, Vinegar, Warehouses, Wine.

**27 CFR Part 250**

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspection, Electronic funds transfers, Excise taxes, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

**27 CFR Part 270**

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds.

**27 CFR Part 275**

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Puerto Rico, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Virgin Islands, Warehouse.

**27 CFR Part 285**

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds.

**Issuance**

Title 27 CFR is amended as follows:

**PART 19—[AMENDED]**

1. The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004-6, 5008, 5041, 5061, 5062, 5066, 5101, 5111-5113, 5171-5173, 5175, 5176, 5178-5181, 5201-5207, 5211-5215, 5221-5223, 5231, 5232, 5235, 5236, 5241-5243, 5271, 5273, 5301, 5311-5313, 5362, 5370, 5373, 5501-5505, 5551-5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

2. Section 19.523 is amended by revising paragraph (a) and by adding the OMB control number to the end of the section to read as follows:

**§ 19.523 Time for filing returns.**

(a) *Payment pursuant to semimonthly return.* (1) Where the proprietor of bonded premises has withdrawn spirits from such premises on determination and before payment of tax, the proprietor shall file a semimonthly tax return covering such spirits of Form 5000.24, and remittance as required by § 19.524 or § 19.525, not later than the 14th day after the last day of the return period, except as provided by paragraph (a)(2) of the section. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due

on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

(2) For spirits withdrawn from bonded premises on determination and before payment of tax during the semimonthly return period ending on December 15, 1986, the return shall be filed and the remittance shall be paid on January 14, 1987.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1512-0467)

**PART 25—[AMENDED]**

3. The authority citation for Part 25 continues to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1309; 26 U.S.C. 5002, 5051-5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5222, 5401-5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303-9308.

4. Section 25.164 is amended by revising paragraph (d) and by adding the OMB control number to the end of the section to read as follows:

**§ 25.164 Semimonthly return.**

\* \* \* \* \*

(d) *Time for filing returns and paying tax.* The brewer shall file the semimonthly tax return, Form 5000.24, for each return period, and remittance as required by this section, not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1512-0467)

**PART 240—[AMENDED]**

5. The authority citation for Part 240 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5111-5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5332, 5351, 5353, 5354, 5356-5358, 5361, 5362, 5364-5373, 5381-5388, 5391, 5392, 5551, 5552, 5661, 5662, 5664, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 27 U.S.C. 205; 31 U.S.C. 9301, 9303, 9304, 9306.

6. Section 240.591 is amended by revising paragraph (d) and by revising the OMB control number to read as follows:

**§ 240.591 Payment of tax by check, cash, or money order.**

\* \* \* \* \*

(d) *Extended deferral.* A proprietor who is qualified for extended deferral as provided in § 240.590a, shall file returns, with remittances for each return period, not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

(Approved by the Office of Management and Budget under control number 1512-0467)

#### PART 250—[AMENDED]

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

**Authority:** 5 U.S.C. 552(a); 19 U.S.C. 81c, 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5141, 5205, 5207, 5232, 5301, 5314, 5555, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 25 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

8. Section 250.112 is amended by revising paragraphs (e) and (f), by removing paragraph (g), by redesignating the existing paragraph (h) as new paragraph (g), and by adding the OMB control number to the end of the section, to read as follows:

#### § 250.112 Taxes to be collected by returns for semimonthly periods.

(e) *Filing.* (1) The original and two copies of returns on Forms 5110.52, 2927 or 2929, with remittances covering the full amount of tax, shall be filed with the Officer-in-Charge not later than the 14th day after the last day of the return period, except as provided by paragraph (f) of this section. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

(2) The tax shall be paid in full by remittance at the time the return is filed, unless the proprietor is required to make remittances by electronic fund transfer in accordance with § 250.112a.

(3) The remittance may be in any form the Officer-in-Charge is authorized to accept under the provisions of 26 CFR 301.6311-1 (Payment by check or money order) and which is acceptable to the Officer-in-Charge. A remittance by check or money order shall be made payable to "Internal Revenue Service."

(4) When the return and remittance are delivered to the Officer-in-Charge by U.S. mail, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be treated as the date of delivery.

(f) *Special rule for return period ending December 15, 1986.* The last day

for filing AFT Form 5110.52 with remittance covering the return period ending December 15, 1986 is January 14, 1987.

(Approved by the Office of Management and Budget under control number 1512-0467)

#### PART 270—[AMENDED]

9. The authority citation for Part 270 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703, 5704, 5705, 5707, 5711, 5712, 5713, 5721, 5722, 5723, 5741, 5751, 5753, 5761, 5762, 6109, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

10. Section 270.165 is revised to read as follows:

#### § 270.165 Times for filing semimonthly return.

(a) *General.* Semimonthly returns on Form 5000.24 shall be filed, for each return period, not later than the 14th day after the last day of the return period, except as provided by paragraph (b) of this section. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

(b) *Special rule for return period ending December 15, 1986.* For the semimonthly return period ending on December 15, 1986, the return shall be filed and the remittance shall be paid on January 14, 1987.

(c) *Postmark.* When the manufacturer sends the tax return with or without remittance by U.S. mail to the district director or the director of the service center in accordance with the instructions on the form, the official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the tax return and, if the return was accompanied by a remittance, the date of delivery of the remittance. When the postmark is illegible, the manufacturer shall prove when the postmark was made. When the proprietor sends the tax return with or without remittance by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, shall be treated as the date of delivery of the tax return and, if accompanied, of the remittance.

(Approved by the Office of Management and Budget under control number 1512-0467)

#### PART 275—[AMENDED]

11. The authority citation for Part 275 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5722, 5723, 5741, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7652(a), 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

#### § 275.81 [Amended]

12. Paragraph (d)(1) of § 275.81 is amended by replacing "(see §§ 275.85 and 275.135)" with "(see § 275.85, 275.85a, or 275.135)".

13. Section 275.85 is amended by adding a new sentence at the beginning of the section, to read as follows:

#### § 275.85 Release from customs custody of imported articles.

The provisions of this section apply only to cigars, cigarettes, cigarette papers, and cigarettes tubes imported or brought into the United States prior to December 16, 1986. \* \* \*

#### § 275.86 [Amended]

14. Section 275.86 is amended by replacing "§ 275.85" with "§ 275.85 or § 275.85a".

15. Paragraph (d) of § 275.101 is revised to read as follows:

#### § 275.101 General.

(d) (1) Prior to December 16, 1986, cigars and cigarettes may be brought into the United States without payment of excise tax, for transfer to the factory of a manufacturer of tobacco products, under the bond of such manufacturer, in accordance with § 275.135.

(2) Prior to December 16, 1986, cigarette paper and tubes may be brought into the United States without payment of excise tax, for transfer to the factory of a manufacturer or cigarette paper and tubes, or for transfer to a manufacturer of tobacco products solely for use in the manufacture of cigarettes, under the bond of such manufacturer bringing in such articles, in accordance with § 275.135.

Section 275.114 is revised to read as follows:

#### § 275.114 Time for filing.

(a) *General rule.* Semimonthly tax returns under this subpart shall be filed by the bonded manufacturer, for each return period, not later than the 14th day after the last day of the return period, except as provided by paragraph (b) of this section. The tax shall be paid in full by remittance at the time the return is filed as prescribed in § 275.115 or § 275.115a.

(b) *Special rule for return period ending December 15, 1986.* For the semimonthly return period ending on December 15, 1986, the return shall be

filed and the remittance shall be paid on January 14, 1987.

(c) *Postmark.* If the return, and remittance, as the case may be, are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return, and remittance as the case may be, were mailed shall be treated as the date of delivery.

(d) *Weekends and holidays.* If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

(Approved by the Office of Management and Budget under control number 1512-0467)

17. Section 275.134 is amended by adding a new sentence at the beginning of the section, to read as follows:

§ 275.135 **Release from customs custody, without payment of tax.**

The provisions of this section, as well as those of §§ 275.136—275.141, apply only to cigars, cigarettes, cigarettes papers, and cigarettes tubes brought into the United States from Puerto Rico prior to December 16, 1986. \* \* \*

#### PART 285—[AMENDED]

18. The authority citation for Part 285 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703-5705, 5711, 5721-5723, 5741, 5751, 5753, 5761-5763, 6109, 6302, 6402, 6404, 6676, 7212, 7325, 7342, 7606; 31 U.S.C. 9301, 9303, 9304, 9306.

19. Section 285.25 is revised to read as follows:

§ 285.25 **Return of manufacturer.**

(a) *Requirement for filing.* A manufacturer of cigarette paper and tubes shall file, for each factory, a semimonthly tax return on ATF Form 5000.24. A return shall be filed for each semimonthly return period regardless of whether cigarette papers and tubes were removed subject to tax or whether tax is due for that particular return period.

(b) *Waiver from filing.* The manufacturer need not file a return for each semimonthly return period if (1) cigarette papers and tubes were not removed subject to tax during the period, and (2) the regional director (compliance) has granted a waiver from filing in response to a written request from the manufacturer.

(c) *Semimonthly return periods.* Semimonthly return periods shall run from the first day of the month through the 15th day of the month, and from the 16th day of the month through the last day of the month.

(d) *Preparation and filing.* The return shall be executed and filed with the district director, director of the service center, or regional director (compliance) in accordance with the instructions on the form.

(e) *Remittance of tax.* Except as provided in § 285.27, remittance of the tax, if any, shall accompany the return.

(f) *Time for filing.* For each semimonthly return period, the return shall be filed not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

(Approved by the Office of Management and Budget under control number 1512-0467)

Signed: December 12, 1986.

Stephen E. Higgins,  
Director.

Approved: December 24, 1986.

John P. Simpson,  
Acting Assistant Secretary (Enforcement).  
[FR Doc. 87-322 Filed 1-7-87; 8:45 am]  
BILLING CODE 4810-31-M

#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 33 CFR Part 117

[CGD13-86-13]

##### Drawbridge Operation Regulations; Naselle River, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule—Revocation.

**SUMMARY:** This amendment revokes the regulations for the Washington State highway bridge, mile 2.5, near Naselle because the bridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

**EFFECTIVE DATE:** This amendment is effective on February 9, 1987.

**FOR FURTHER INFORMATION CONTACT:** John Mikesell, Chief, Bridge Section, (206) 442-5876.

##### SUPPLEMENTARY INFORMATION:

##### Drafting Information:

The drafters of this rule are Austin Pratt, project officer, and Lieutenant Commander Lawrence I. Kiern, project attorney.

This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists. Consequently, this action is considered to be non-major

under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant economic impact on a substantial number of small entities.

##### List of Subjects in 33 CFR Part 117

Bridges.

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

##### PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

§ 117.1054 [Removed]

2. Section 117.1054 is removed.

Dated: December 24, 1986.

Theodore J. Wojnar,  
Rear Admiral, U.S. Coast Guard Commander,  
13th Coast Guard District.  
[FR Doc. 87-371 Filed 1-7-87; 8:45 am]

BILLING CODE 4910-14-M

##### 33 CFR Part 165

[COTP Jacksonville, FL Regulation 86-57]

##### Security Zone Regulations; Vicinity, Kennedy Space Center, Merritt Island, FL

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

**SUMMARY:** The Coast Guard is establishing a security zone in the vicinity of the Kennedy Space Center, Merritt Island, Florida to provide protection for public safety. This zone is needed to safeguard waterfront facilities against destruction from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by Captain of the Port Jacksonville.

**EFFECTIVE DATES:** This regulation becomes effective at 0800 local on 15 January 1987. It terminates at 2359 on 18 January 1987 unless sooner terminated by Captain of the Port Jacksonville.



**FOR FURTHER INFORMATION CONTACT:**  
LCDR Henderson, MSO Jacksonville at  
(904) 791-2648.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction to government facilities carrying out the testing of the Trident II missile program.

#### Drafting Information

The drafters of this regulation are LCDR Harlan Henderson, project officer for the Captain of the Port, and LCDR Stanley Fuger, project attorney, Seventh Coast Guard District Legal Office.

#### Discussion of Regulation

The incident requiring this regulation will occur on or about 17 January 1987. Anti-nuclear demonstrations are planned for this date at the Kennedy Space Center to protest the testing of the Trident II missile program. Several groups attending the demonstration intend to attempt to enter the Cape Canaveral facility by water to obstruct and delay the test for an extended period of time and damage government equipment and facilities. This regulation is needed to insure public safety and provide protection to government property during those times deemed necessary by Captain of the Port Jacksonville. This regulation issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

#### Regulation

In consideration of the foregoing, Subpart D of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

#### PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 33 CFR 160.5.

2. A new § 165.T0757 is added to read as follows:

§ 165.T0757 Security Zone: Vicinity, Kennedy Space Center, Merritt Island, Florida.

(a) *Location.* The following area is a security zone: The water, land, and land and water within the following boundaries are a security zone—The perimeter of the Cape Canaveral Barge Canal and the Banana River at 28°24'33" N., 80°39'48" W.; then due west along the northern shoreline of the barge canal for 1300 yards; then due north to 28°28'42" N., 80°40'30" W., on Merritt Island. From this position, the line proceeds irregularly to the eastern shoreline of the Indian River to a position 1300 yards south of the NASA Causeway at 28°30'54" N., 80°43'42" W. (the line from the barge canal to the eastern shoreline of the Indian River is marked by a three strand barbed wire fence), then north along the shoreline of the Indian River to the NASA Causeway at 28°31'30" N., 80°43'48" W. The line continues west on the southern shoreline of the NASA Causeway to NASA Gate 3 (permanent), then north to the northern shoreline of the NASA Causeway and east on the northern shoreline of the causeway back to the shoreline on Merritt Island at position 28°31'36" N., 80°43'42" W., then northwest along the shoreline to 28°41'01.2" N., 80°47'10.2" W. (Blackpoint); then due north to channel marker #6 on the Intracoastal Waterway (ICW), then northeast along the southern edge of the ICW to the western entrance to the Haulover Canal. From this point, the line continues northeast along the southern edge of the Haulover Canal to the eastern entrance to the canal; then due east to a point in the Atlantic Ocean 3 miles offshore at 28°44'42" N., 80°37'51" W.; then south along a line 3 miles from the coast to a point in the Atlantic Ocean 3 miles offshore at 28°21'00" N., 80°32'55" W.; then due west to a point at 28°21'00" N., 80°39'48" W. The line continues due north to the starting point.

(b) *Effective date:* This regulation becomes effective at 0800 local on 15 January 1987. It terminates at 2359 local on 18 January 1987 unless sooner terminated by Captain of the Port Jacksonville.

(c) *Regulations:* (1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by Captain of Port Jacksonville. Section 165.33 also contains other general requirements.

(2) The area described in paragraph (a) of this section is closed to all vessels and persons, except those vessels and persons authorized by the Commander, Seventh Coast Guard District, or the COTP Jacksonville, Florida.

(3) COTP Jacksonville, Florida, closes the security zone, or specific portions of it, by means of locally promulgated notices. The closing of the area is signified by the display of a red ball from a 90 foot pole near the shoreline at approximately 28°35'18" N., 80°35'00" W. Appropriate Local Notice to Mariners will also be broadcast on 2670 KHZ and 156.800 MHZ (Ch 16 VHF-FM).

Dated: December 30, 1986.

M. Woods,

Captain, U.S. Coast Guard, Captain of the Port, Jacksonville, FL.

[FR Doc. 87-372 Filed 1-7-87; 8:45 am]

BILLING CODE 4910-14-M

#### LIBRARY OF CONGRESS

#### 36 CFR Part 702

#### Conduct on Library Premises

**AGENCY:** Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** In the interest of providing members of the public and other interested parties with information concerning current rules and regulations applicable to persons using the buildings and grounds of the Library of Congress, the Library is revising the text of its regulations as published in Chapter VII, Title 36 of the Code of Federal Regulations.

**EFFECTIVE DATE:** January 8, 1987.

**FOR FURTHER INFORMATION CONTACT:** Howard Blancheri, Executive Officer, Management Services (202-287-5560).

#### SUPPLEMENTARY INFORMATION:

#### List of Subjects in 36 CFR Part 702

Federal buildings and facilities, libraries.

For reasons set out in the preamble, Chapter VII, Title 36 of the Code of Federal Regulations is amended as shown:

#### PART 702—[AMENDED]

1. The authority citation for Part 702 continues to read as follows:

Authority: Sec. 1, 29 Stat. 544, 546; U.S.C. 136.

2. The *table of contents* for Part 702 is revised to read as follows:

Sec.	
702.1	Applicability.
702.2	Access to Library buildings and collections.
702.3	Conduct on Library premises.
702.4	Demonstrations.
702.5	Photographs.
702.6	Gambling.

- Sec.  
 702.7 Alcoholic beverages and controlled substances.  
 702.8 Weapons and explosives.  
 702.9 Use and carrying of food and beverages in Library buildings.  
 702.10 Inspection of property.  
 702.11 Protection of property.  
 702.12 Smoking in Library buildings.  
 702.13 Space for meetings and special events.  
 702.14 Soliciting, vending, debt collection, and distribution of handbills.  
 702.15 Penalties.

3. Section 702.3 is revised to read as follows:

**§ 702.3 Conduct on Library premises.**

(a) All persons using the premises shall conduct themselves in such manner as not to affect detrimentally the peace, tranquility, and good order of the Library. Such persons shall:

(1) Use areas that are open to them only at the times those areas are open to them and only for the purposes for which those areas are intended;

(2) Comply with any lawful order of the police or of other authorized individuals; and

(3) Comply with official signs of a restrictive or directory nature.

(b) All persons using the premises shall refrain from:

(1) Creating any hazard to persons or property, such as by fighting or by throwing or deliberately dropping any breakable article, such as glass, pottery, or any sharp article, or stones or other missiles;

(2) Using Library facilities for living accommodation purposes, such as unauthorized bathing, sleeping, or storage of personal belongings, regardless of the specific intent of the individual;

(3) Engaging in inordinately loud or noisy activities;

(4) Disposing of rubbish other than in receptacles provided for that purpose;

(5) Throwing articles of any kind from or at a Library building or appurtenance;

(6) Committing any obscene or indecent act such as prurient prying, indecent exposure, and soliciting for illegal purposes;

(7) Removing, defacing, damaging, or in any other way so misusing a statue, seat, wall, fountain, or other architectural feature or any tree, shrub, plant, or turf;

(8) Stepping upon or climbing upon any statue, fountain, or other ornamental architectural feature or any tree, shrub, or plant;

(9) Bathing or swimming in any fountain;

(10) Painting, marking or writing on, or posting or otherwise affixing any handbill or sign upon any part of a

Library building or appurtenance, except on bulletin boards installed for that purpose and with the appropriate authorization;

(11) Bringing any animal onto Library buildings and turf other than dogs trained to assist hearing or visually impaired persons;

(12) Threatening the physical well-being of an individual; and

(13) Unreasonably obstructing reading rooms, food service facilities, entrances, foyers, lobbies corridors, offices elevators, stairways, or parking lots in such manner as to impede or disrupt the performance of official duties by the Library staff or to prevent Library patrons from using or viewing the collections.

(c) Public reading rooms, research facilities, and catalog rooms are designated as nonpublic forums. As such, they shall be used only for quiet scholarly research or educational purposes requiring use of Library materials. All persons using these areas shall comply with the rules in effect in the various reading rooms, shall avoid disturbing other readers, and shall refrain from, but not limited to,

(1) Eating, drinking, or smoking in areas where these activities are expressly prohibited;

(2) Using loud language or making disruptive noises;

(3) Using any musical instrument or device, loudspeaker, sound amplifier, or other similar machine or device for the production or reproduction of sound, except for devices to assist hearing or visually impaired persons, without authorization;

(4) Interfering by offensive personal hygiene with the use of the area by other persons;

(5) Spitting, defecating, urinating, or similar disruptive activities;

(6) Intentionally abusing the furniture or furnishings in the area;

(7) Intentionally damaging any item from the collections of the Library of Congress or any item of Library property;

(8) Using computing terminals for purposes other than searching or training persons to search the Library's data bases or those under contract to the Library, or misusing the terminals by intentional improper or obstructive searching; and

(9) Using the Library's photocopy machines for purposes other than copying Library materials whenever other persons are waiting in line.

**§§ 702.4—702.14 [Redesignated as §§ 702.5—702.15]**

4. Sections 702.4 through 702.14 are redesignated as §§ 702.5 through 702.15.

5. Newly redesignated § 702.5 is

revised to read as follows:

**§ 702.5 Photographs.**

Photographs for advertising or commercial purposes may be taken only with the permission of the Library's Information Officer. Cameras and other photographic equipment may be carried on the premises, but their use in certain areas may be restricted by rules or posted signs. Persons using still, motion picture, or video cameras with flash attachments or lights or with tripods or other stationary equipment shall obtain the prior permission of the Library's Information Officer.

6. Part 702 is amended by adding § 702.4 to read as follows:

**§ 702.4 Demonstrations.**

(a) Library buildings and grounds are designated as limited public forums, except for those areas designated as nonpublic forums. However, only Library grounds (defined in 2 U.S.C. 167j), not buildings, may be utilized for demonstrations, including assembling, marching, picketing, or rallying. In addition, as the need for the determination of other matters arises, The Librarian will determine what additional First Amendment activities may not be permitted in a limited public forum. In making such determination, The Librarian will consider only whether the intended activity is incompatible with the primary purpose and intended use of that area.

(b) The only areas of the Library grounds that are designated for use for demonstrations are the following:

(1) *Thomas Jefferson Building*: The Neptune Plaza and the interior sidewalks on the north and south sides of the building;

(2) *John Adams Building*: The plaza in front of the south entrance to the building; and

(3) *James Madison Building*: The portion of Independence Plaza between the pylons that demarcate the driveway and Independence Avenue, and the western and eastern ends of the plaza beyond the ramps for the handicapped.

(c) Persons seeking to use such designated areas for the purpose of demonstrations shall first secure written permission from the Associate Librarian for Management. An application for such permission shall be filed with the Library Support Services Office no later than three workdays before the time of the proposed demonstration. Permission to demonstrate shall be based upon—

(1) The availability of the requested location and

(2) The likelihood that the demonstration will not interfere with Library operations or exceed city noise limitations as defined by District of

Columbia regulations (26 D.C. Reg. 229 and 24 D.C. Reg. 293).

(d) No person(s) having permission to demonstrate pursuant to this Regulation shall at any time block either the entrances to or exits from the Library buildings nor shall such person(s) harass, intimidate, or otherwise interfere with the use of the Library's facilities by persons not participating in the demonstration.

7. Newly redesignated § 702.6 is revised to read as follows:

**§ 702.6 Gambling.**

Participation in any illegal gambling, such as the operation of gambling devices, the conduct of an illegal pool or lottery, or the unauthorized sale or purchase of numbers or lottery tickets, on the premises is prohibited.

8. Newly redesignated § 702.7 is revised to read as follows:

**§ 702.7 Alcoholic beverages and controlled substances.**

(a) The use of alcoholic beverages on the premises is prohibited except on official occasions for which advance written approval has been given by the Associate Librarian for Management and except for concessionaires to whom Library management has granted permission to sell alcoholic beverages on the premises.

(b) The illegal use or possession of controlled substances on the premises is prohibited.

9. Newly redesignated § 702.8 is revised to read as follows:

**§ 702.8 Weapons and explosives.**

Except where duly authorized by law, and in the performance of law enforcement functions, no person shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, while on the premises.

10. Newly redesignated § 702.14 is revised to read as follows:

**§ 702.14 Soliciting, vending, debt collection, and distribution of handbills.**

(a) The soliciting of alms and contributions, commercial soliciting and vending of all kinds, the display or distribution of commercial advertising, the offering or exposing of any article for sale, or the collecting of private debts on the grounds or within the buildings of the Library is prohibited. This rule does not apply to national or local drive for funds for welfare, health, or other purposes sponsored or approved by The Librarian of Congress, nor does it apply to authorized concessions, vending devices in approved areas, or as specifically

allowed by the Associate Librarian for Management.

(b) Distribution of material such as pamphlets, handbills, and flyers is prohibited without prior approval of the Associate Librarian for Management.

(c) Peddlers and solicitors will not be permitted to enter Library buildings unless they have a specific appointment, and they will not be permitted to canvass Library buildings.

11. Newly redesignated § 702.15 is revised to read as follows:

**§ 702.15 Penalties.**

(a) Persons violating provisions of 2 U.S.C. 167a to 167e, inclusive, regulations promulgated pursuant to 2 U.S.C. 167f, this Regulation, or other applicable Federal laws relating to the Library's property, including its collections, are subject to removal from the premises, to arrest, and to any additional penalties prescribed by law. In instances of mutilation or theft of Library materials or other Library property, prosecution by appropriate authorities shall be in accordance with the provisions of the statutes cited in § 702.11.

(b) Upon written notification by the Associate Librarian for Management, disruptive persons may be denied further access to the premises and may be prohibited from further use of the Library's facilities.

(1) Within three workdays of receipt of such notification, an affected individual may make a written request, including the reasons for such a request, to the Associate Librarian for Management for a reconsideration of said notification.

(2) The Associate Librarian for Management shall respond within three workdays of receipt of such request for reconsideration and may, at his or her option, rescind, modify, or reaffirm said notification.

Glen A. Zimmerman,

Associate Librarian for Management Library of Congress.

[FR Doc. 87-321 Filed 1-7-87; 8:45 am]

BILLING CODE 1401-01-M

**POSTAL SERVICE**

**39 CFR Part 10**

**Express Mail International Service to Austria**

**AGENCY:** Postal Service.

**ACTION:** Final action on Express Mail International Service to Austria.

**SUMMARY:** Pursuant to an agreement with the postal administration of

Austria, the Postal Service intends to begin Express Mail International Service with Austria at postage rates indicated in the tables below. Service is scheduled to begin on February 7, 1987.

**EFFECTIVE DATE:** February 7, 1987.

**FOR FURTHER INFORMATION CONTACT:** Leon W. Perlinn, [202] 268-2673.

**SUPPLEMENTARY INFORMATION:** By a notice published in the Federal Register on December 2, 1986 [51 FR 43386], the Postal Service announced that it was proposing to begin Express Mail International Service to Austria. Comments were invited on published rate tables, which are proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which are to become effective on the date service begins. No comments were received. Accordingly, the Postal Service states that it intends to begin Express Mail International Service with Austria on February 7, 1987 at the rates indicated in the table below.

**Lists of Subjects in 39 CFR Part 10**

Postal Service, Foreign relations.

**PART 10—[AMENDED]**

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

Authority: 5 U.S.C. 552[a], 39 U.S.C. 401, 404, 407, 408.

**AUSTRIA—EXPRESS MAIL INTERNATIONAL SERVICE**

Custom designed service <sup>1,2</sup> up to and including		On demand service <sup>2</sup> up to and including	
Pounds	Rate	Pounds	Rate
1	\$31.00	1	\$23.00
2	34.80	2	26.80
3	38.60	3	30.60
4	42.40	4	34.40
5	46.20	5	38.20
6	50.00	6	42.00
7	53.80	7	45.80
8	57.60	8	49.60
9	61.40	9	53.40
10	65.20	10	57.20
11	69.00	11	61.00
12	72.80	12	64.80
13	76.60	13	68.60
14	80.40	14	72.40
15	84.20	15	76.20
16	88.00	16	80.00
17	91.80	17	83.80
18	95.60	18	87.60
19	99.40	19	91.40
20	103.20	20	95.20
21	107.00	21	99.00
22	110.80	22	102.80
23	114.60	23	106.60
24	118.40	24	110.40
25	122.20	25	114.20

## AUSTRIA—EXPRESS MAIL INTERNATIONAL SERVICE—Continued

Custom designed service <sup>1 2</sup> up to and including		On demand service <sup>2</sup> up to and including	
Pounds	Rate	Pounds	Rate
26	126.00	26	118.00
27	129.80	27	121.80
28	133.60	28	125.60
29	137.40	29	129.40
30	141.20	30	133.20
31	145.00	31	137.00
32	148.80	32	140.80
33	152.60	33	144.60
34	156.40	34	148.40
35	160.20	35	152.20
36	164.00	36	156.00
37	167.80	37	159.80
38	171.60	38	163.60
39	175.40	39	167.40
40	179.20	40	171.20
41	183.00	41	175.00
42	186.80	42	178.80
43	190.60	43	182.60
44	194.40	44	186.40

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

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

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

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-356 Filed 1-7-87; 8:45 am]

BILLING CODE 7710-12-M

## DEPARTMENT OF TRANSPORTATION

## Research and Special Programs Administration

## 49 CFR Part 193

[Docket PS-89; Amdt. 193-4]

## Fire Protection and Security of Waterfront Liquefied Natural Gas Facilities

**AGENCY:** Research and Special Programs Administration (RSPA).

**ACTION:** Final rule.

**SUMMARY:** This amendment extends the scope of the existing standards

governing fire protection and security of liquefied natural gas (LNG) facilities to cover facilities at waterfront LNG plants other than facilities that involve marine cargo transfer operations and facilities located in navigable waters. The amendment is needed to comply with mandatory provisions of the Pipeline Safety Act of 1979 and to conform the existing standards with new responsibilities for regulating fire protection and security under a revised memorandum of understanding (MOU) with the United States Coast Guard (USCG). The amendment requires that the affected facilities at waterfront LNG plants meet the same standards for fire protection and security that now apply to similar facilities at more than 100 non-waterfront LNG plants in the United States.

**EFFECTIVE DATE:** This amendment takes effect January 8, 1988.

**FOR FURTHER INFORMATION CONTACT:** L. M. Furrow, 202-366-2392.

**SUPPLEMENTARY INFORMATION:** Section 152(a) of the Pipeline Safety Act of 1979 (49 U.S.C. 1674a(b)) required the Secretary of Transportation to establish, within 270 days after November 30, 1979, minimum safety standards for operation and maintenance of LNG facilities. With certain exceptions for waterfront LNG plants (as explained below), RSPA issued the requisite standards on October 17, 1980, including, in accordance with 49 U.S.C. 1674a(d)(3), associated standards for fire protection and security of LNG facilities and personnel qualifications and training. The new standards were published as Subparts F-J of Part 193 (Docket OPSO-46; 45 FR 70390, October 23, 1980), completing a comprehensive set of safety standards for LNG facilities begun January 30, 1980, by issuance of standards for siting, design, and construction (45 FR 9189; February 11, 1980).

The USCG has been developing regulations for the storage and handling of LNG and other hazardous materials at waterfront facilities. To avoid inconsistent regulations and duplication of effort regarding waterfront LNG plants, a MOU was signed February 7, 1978 (44 FR 8146). Among other things, the 1978 MOU made the establishment of regulatory requirements for fire protection and security matters at waterfront LNG plants an exclusive USCG responsibility. Therefore, RSPA did not apply the Part 193 standards for fire protection (Subpart I) and security (Subpart J) and the related personnel qualifications and training requirements (Subpart H) to waterfront LNG plants.

Since the 1978 MOU was signed, USCG has reassessed the scope of its port safety and security responsibilities. Also, since then RSPA has gained experience applying the fire protection and security standards to over 100 non-waterfront LNG plants. Many of these plants are similar in size and operating characteristics to waterfront LNG plants. Given these considerations, RSPA and USCG reconsidered the division of responsibilities under the 1978 MOU regarding fire protection and security regulations and adopted a revised MOU, signed May 9, 1986. It was published in the May 16, 1986, issue of the *Federal Register* as part of USCG's rulemaking notice on waterfront LNG plants (51 FR 18276).

The revised MOU assigns RSPA new responsibility for regulating fire protection and security at waterfront LNG plants. It also recognizes that due to a statutory change (49 U.S.C. 1671(12)), RSPA's responsibility for regulating LNG facilities does not extend to any structures or equipment (or portions thereof) located in navigable waters. All other duties assigned by the 1978 MOU remain the same. More specifically, the revised MOU assigns RSPA responsibility for regulating fire protection and security of all waterfront LNG facilities except those facilities located between the vessel and the last manifold (or valve) immediately before the receiving tanks and any structures or equipment (or portions thereof) located in navigable waters. USCG is responsible for fire protection, security, and all other matters pertaining to these excepted facilities except for RSPA's responsibility for site selection of the onshore portion of marine cargo transfer systems and associated facilities. The facilities excepted from RSPA's new fire protection and security responsibilities are indicated by the existing § 193.2001(b)(3) and (4).

In view of the new division of regulatory responsibilities and the mandate of the Pipeline Safety Act of 1979, RSPA proposed in Notice 1 of this proceeding (51 FR 18276, May 16, 1986) to extend the Part 193 fire protection and security standards and related personnel qualification and training requirements to waterfront LNG plants, with the exception of marine cargo transfer systems and associated facilities and any structures or equipment (or portions thereof) located in navigable waters.

RSPA received 4 comments on the notice of proposed rulemaking: 3 from owners of waterfront LNG plants and 1 from a trade association. None of the

commenters objected to any of the substantive aspects of the proposal, but each expressed concern about when compliance would be required.

Three commenters argued that the new rules should not be applied to inactive LNG plants, that is, existing plants that do not contain LNG. (Three of the 5 existing waterfront LNG plants in the U.S. are now inactive). They noted that inactive plants do not pose a sufficient threat to public safety to warrant additional safety expenditures, and any equipment purchased for compliance now could become obsolete before an inactive plant is returned to service. These commenters indicated that compliance should not be required until a plant becomes active again (contains LNG).

In Notice 1 RSPA suggested that a 6-month period after publication of a final rule would be adequate for operators of existing waterfront LNG plants to prepare for compliance. This proposed effective date was intended to apply to waterfront LNG plants that contain LNG, not those that are inactive. RSPA did not intend that the existing plants that are now inactive meet the fire protection and security standards while inactive. Not until an inactive LNG plant is returned to operation (i.e., resupplied with LNG) would it have to meet the Part 193 fire protection, security and associated qualification and training standards.

Two commenters concerned about inactive plants suggested that the scope sections of the fire protection and security subparts be amended to indicate that these subparts do not apply to inactive LNG plants. RSPA has adopted this comment because of the apparent misunderstanding of the intent of this rulemaking. Thus, the scope of Subpart I (§ 193.2801) and the scope of Subpart J (§ 193.2901) are each revised by deleting the exception for waterfront LNG plants and by adding a statement that the subpart does not apply to existing LNG plants that do not contain LNG.

One commenter who operates a waterfront LNG plant requested that RSPA allow 1 year after its plant resumes importing LNG or one year after the final rules are published, whichever comes last, to achieve compliance. As justification for the extended compliance period, this commenter pleaded severe financial constraints due to current suspension of its import operations, and the safety of its facilities.

RSPA noted this commenter said that under normal conditions it would take one year to complete the engineering, buy the material, and make the installations. Accepting this estimate

and considering the condition of the plant, RSPA agrees that more time for compliance is appropriate. However, to extend the time for compliance until the plant again receives import shipments would not seem in the interest of public safety since the plant is not inactive. Therefore, RSPA believes 1 year after the final rules are issued should be allowed to achieve compliance. The operator may of course petition for waiver of this deadline should it believe for financial or other reasons that additional time is needed. To avoid having an earlier effective date for the one other active waterfront LNG plant, the effective date for the final rule has been set 1 year after publication as a general requirement.

#### Advisory Committee Review

The Technical Pipeline Safety Standards Committee, a 15-member advisory committee established under section 4(b) of the National Gas Pipeline Safety Act of 1968, considered the proposed rules at a meeting in Washington, DC on June 10, 1986. The Committee declared the proposed rules to be technically feasible, reasonable, and practicable. A transcript of the Committee's deliberations and a report of its findings are available in the docket for this proceeding.

#### Classification

This amendment to the regulations is considered to be nonmajor under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034, February 28, 1979) based on the evaluation of costs and benefits contained in Docket OPSO-46. Also, the agency certifies that this amendment will not have a significant economic impact on a substantial number of small entities, since small entities do not now, and are not expected to, own or operate waterfront LNG plants because of the high capital costs involved. RSPA's experience with waterfront LNG plants shows that the expected impact of this rulemaking on existing and planned facilities would not be substantial enough to warrant a full evaluation of the costs and benefits involved.

#### List of Subjects in 49 CFR Part 193

Fire prevention, Security, Liquefied natural gas facilities.

#### PART 193—[AMENDED]

Accordingly, RSPA amends Part 193 of Title 49 of the Code of Federal Regulations as follows:

1. The authority citation for Part 193 is revised to read as follows:

Authority: 49 U.S.C. 1674a; 49 CFR 1.53.

2. Section 193.2801 is revised to read as follows:

#### § 193.2801 Scope.

This subpart prescribes requirements for fire prevention and fire control at LNG plants. However, the requirements do not apply to existing LNG plants that do not contain LNG.

3. Section 193.2901 is revised to read as follows:

#### § 193.2901 Scope.

This subpart prescribes requirements for security at LNG plants. However, the requirements do not apply to existing LNG plants that do not contain LNG.

Issued in Washington, DC, on January 5, 1987.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 87-351 Filed 1-7-87; 8:45 am]

BILLING CODE 4910-60-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Cupressus abramsiana* (Santa Cruz Cypress)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service determines *Cupressus abramsiana* (Santa Cruz cypress) to be an endangered species. Only five small populations of this endemic species exist, occurring on private and county land in the Santa Cruz Mountains of Santa Cruz and San Mateo Counties, California. Residential development, agricultural conversion, logging, genetic introgression, and alteration of the natural frequency of fires threaten or have destroyed portions of each grove. In addition, oil and gas drilling may threaten a portion of the northernmost grove on Butano Ridge. The Bureau of Land Management has leased the Federal subsurface oil and gas rights and has the responsibility to approve any future drilling activities. This final rule implements the protection provided by the Endangered Species Act of 1973, as amended.

**DATES:** The effective date of this rule is February 9, 1987.

**ADDRESSES:** The complete file for this rule is available for inspection, by

appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE., Multnomah Street, Suite 1692, Portland, Oregon 97232.

**FOR FURTHER INFORMATION CONTACT:** Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

**SUPPLEMENTARY INFORMATION:**

**Background**

*Cupressus abramsiana* (Santa Cruz cypress), first collected by M.E. Jones in 1881, was described by C.B. Wolf in 1948 from specimens collected "east of Bonnie Doon School" atop Ben Lamond Mountain within the Santa Cruz Mountains, Santa Cruz County, California. This erect, densely branched tree, a member of the cypress family (Cupressaceae), attains a height of up to 10 meters (34 feet) and typically develops a compact, symmetrical, pyramidal crown (Wolf 1948, Young 1977). Wolf (1948) considered the Santa Cruz cypress to be intermediate between Gowen (*Cupressus goveniana*) and Sargent cypress (*C. sargentii*). Mature foliage of *Cupressus abramsiana* is scale-like and rich light green, while its bark is gray and fibrous (Wolf 1948). The trees annually produce numerous female cones, 20 to 30 millimeters (0.8 to 1.2 inches) long, near the growing branch tip. These cones, which are firmly attached to the branch, remain closed and retain their seeds until the tree or supporting branch dies, generally as a result of fire (Bartel and Knudsen 1982). These serotinous (late-opening) cones enable cypresses to drop abundant quantities of seed to the ground after a typical fire burns a grove (Bartel and Knudsen 1982).

Habitat for *Cupressus abramsiana* consists of chaparral and closed-cone cypress and pine forest within a mosaic of redwood and mixed evergreen forest (Griffin and Critchfield 1972). The groves grow atop predominantly Eocene or Lower Miocene sandstone or soils derived from Mesozoic granite (Jennings and Burnett 1961), within an area influenced by a Mediterranean-type climate (i.e., with cool, wet winters and hot, dry summers) and with little to no coastal fog (Young 1977). Cypress habitat ranges in elevation from 300 to 750 meters (1020 to 2550 feet). Associated species include *Pinus attenuata*, *Quercus chrysolepis*, *Q. wislizenii* var. *frutescens*, *Haplopappus ericoides* ssp. *blakei*, *Dendromecon rigida*, *Adenostoma fasciculata*, *Ceanothus cuneatus*, and *Arctostaphylos silvicola* (Wolf 1948).

Recurring wildfire periodically burns cypress habitat, a phenomenon that likely shaped all groves of *Cupressus abramsiana*. Because individual trees fail to resprout from their charred trunks after fire, the species depends upon seed stored in their serotinous cones for post-fire regeneration. Fire recurring at too frequent an interval to allow trees to reach seed-bearing age could result in extirpation of a grove. Conversely, the prolonged absence of fire (i.e., 200 years or more) could lead to lowered post-fire reproductive capability with the successional establishment of other competing plants, thus possibly leading to the constriction or extinction of a grove (Bartel and Knudsen 1982).

This species is limited to five small groves in a two county area. The only grove in San Mateo County grows on Butano Ridge. In Santa Cruz County, groves occur near Bonny Doon, Eagle Rock, and Braken Brae Creek, and between Majors and Laguna Creeks. These groves occur predominantly on privately owned lands, although a significant portion of the Butano Ridge stand is within Pescadero Creek County Park. This grove is under the jurisdiction of the San Mateo County Department of Parks and Recreation. Residential development, agricultural conversion, logging, genetic introgression, and alteration of the natural fire frequency singly or in concert with (one or more of the other factors) threaten all five populations. An additional threat to the Butano Ridge grove may arise from oil and gas drilling. All groves also exhibit signs of past disturbance by construction (Bracken Brae and Majors Creek), logging (Butano Ridge and Eagle Rock), vandalism (Bonny Doon), and fire (Boony Doon) (Wolf 1984, Bartel and Knudsen 1982). Protective and cooperative action by Federal, State, and private parties is needed to ensure the species' safety and provide for its recovery.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report (House Document No. 94-51) was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice of review in the *Federal Register* (40 FR 27823) accepting this report as a petition within the context of former section 4(c)(2) of the Act (petition acceptance is now governed by section 4(d)(3)(A) of the Act). On June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523) to determine approximately 1,700 vascular plant taxa

to be endangered species pursuant to Section 4 of the Act. *Cupressus abramsiana* was included in the Smithsonian report, the notice of review of July 1, 1975, and the proposal of June 16, 1976, as *C. goveniana* var. *abramsiana* (C.B. Wolf) Little.

The Endangered Species Act, as amended in 1978, required that all proposals over 2 years old be withdrawn, except that a 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired (44 FR 70796), for administrative rather than biological reasons. In the *Federal Register* of December 15, 1980 (45 FR 82480), the Service published a revised notice of review. *Cupressus abramsiana* was included in this notice as a category-1 species, indicating that existing data warranted proposing to list the species as endangered or threatened.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The deadline for making a finding on species covered by such a petition, including *Cupressus abramsiana*, was October 13, 1983. On October 13, 1983, and again on October 12, 1984, the petition finding was made that listing *Cupressus abramsiana* was warranted, but precluded by other pending listing actions, in accordance with Section 4(b)(3)(B)(iii) of the Act. Such a finding requires a recycling of the petition, pursuant to section 4(b)(3)(C)(i) of the Act. The Service proposed *Cupressus abramsiana* as an endangered species on September 12, 1985 (50 FR 37249), constituting a new finding prior to the deadline of October 13, 1985. The Service now determines this plant to be endangered with the publication of this final rule.

**Summary of Comments and Recommendations**

In the September 12, 1985 proposed rule (50 FR 37249) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final decision on the proposal. Because of an unavoidable administrative problem in receiving *Federal Register* issues containing the proposal on October 31, 1985 (50 FR 45443), the Service extended the original comment period to November 12, 1985. Appropriate Federal and State agencies, county governments, biologists, scientific organizations, and other

interested parties were contacted and requested to comment. The Act requires that the proposal be advertised in a newspaper of general circulation in the area in which the species occurs. Through an administrative error, notice of this proposal was originally submitted to a newspaper in the wrong area. Consequently, the Service reopened the comment period in the *Federal Register* on November 26, 1985 (50 FR 48616), and republished notice of the proposal locally. In this notice, the Service solicited comments until January 27, 1986, and public hearing requests until January 10, 1986. Newspaper notices inviting public comment were published in the *Reno Gazette Journal* on November 1, 1985, *San Mateo Times* on December 17, 1985, *Santa Cruz Good Time* on December 19, 1985, *San Francisco Chronicle* on December 23, 1985, and *San Jose Mercury News* on December 27, 1985.

Of the 14 comments received during the regular extended, and reopened comment periods, 11 supported the listing, while three expressed no opinion or indicated listing would not affect the respondents' activities. The Service received a letter from Congressman Leon Panetta strongly supporting the listing of this tree, which grows in the northern portion of his 16th Congressional District. The Service also received comments from the Bureau of Reclamation, two State agencies, three county agencies, two environmental groups (including three letters from various chapters or offices of the California Native Plant Society), and three interested individuals. These comments and the Service response to each are listed below.

Most of the comments focused on the numerous threats facing the Santa Cruz cypress. For example, many letters noted the proposed vineyard that threatens the Bonny Doon grove. Others described the felling of the largest tree of the species by vandals. A few respondents, including the California Department of Fish and Game (CDFG), noted that *Cupressus abramsiana* is listed as endangered by the CDFG, contrary to a statement in the proposed rule. Nevertheless, Santa Cruz County and Congressman Panetta said State and local laws and ordinances do not adequately protect the species. CDFG, which supported the rule, agreed with the Service that it would not be prudent to define critical habitat at this time. One individual noted that genetic introgression from exotic cypresses (e.g., *Cupressus macrocarpa*, *C. glabra*) also may threaten the plant. The Service agrees with these comments and has

incorporated these points into this rule. One respondent claimed he knew of no biological or commercial threats facing *Cupressus abramsiana* and that the species now receives outstanding protection. Information presented to the Service and summarized in this rule, however, demonstrates the lack of effective protection for this species. The same respondent stated that portions of the Eagle Rock grove below the California Department of Forestry fire lookout and a few trees from the Boony Doon grove around the fire station grow on State-owned land. However, the former occur on leased land while the latter site is owned by a local volunteer fire department.

Several respondents detailed aspects of the species' ecology not described in the proposed rule (e.g., the species does not completely depend upon fire for seedling establishment). One individual claimed that four additional populations exist beyond the five discussed in the proposed rule. However, one of the four additional populations was found to be a solitary Mexican cypress (*Cupressus lusitanica*), and another population was determined to be a southern extension of the Bonny Doon grove. Although the other two populations identified by this individual may harbor *Cupressus abramsiana*, identification is uncertain at this time due to the age of the cypress growing at these sites. These trees appear to be planted or seeded, growing within atypical plant communities and atop non-sandstone substrates immediately adjacent to the edge of a paved road. Nevertheless, even if these populations are identified as *C. abramsiana*, the endangered classification for this species would still be appropriate.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Cupressus abramsiana* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cupressus abramsiana* C.B. Wolf (Santa Cruz cypress) are as follows:

#### A. The present or threatened destruction, modification, or curtailment of its habitat or range

The Santa Cruz cypress now occurs in a very limited range comprising five small groves in the Santa Cruz Mountains of California. All the groves are threatened by one or more of the following factors: Residential development, agricultural conversion, logging, genetic introgression, and alteration of the natural fire frequency. About one-third of the Bracken Brae grove was destroyed in 1975 by a residential development (Libby 1979). Two further phases of this project threaten the remainder of the grove. The largest grove, at Bonny Doon, is threatened by a proposed vineyard. Over one-half of the cypress habitat at Bonny Doon could be lost as a result of this development. The Majors Creek and Eagle Rock groves are threatened by logging or residential development. Logging and potential oil and gas drilling threaten portions of the Butano Ridge grove. Introduced, exotic cypresses, such as Monterey (*Cupressus macrocarpa*) and Arizona smooth cypress (*C. glabra*) cultivated in tree farms and yards on Ben Lomond Mountain, could hybridize with the native stands of *Cupressus abramsiana*, thus threatening the genetic integrity of the species.

#### B. Overutilization for commercial, recreational, scientific, or educational purposes

Not applicable.

#### C. Disease or predation

Although *Cupressus abramsiana* is "quite susceptible" to cypress canker (*Corneum cardinale*) (Wagner 1948), the significance of this disease to native stands of Santa Cruz cypress is unknown at this time.

#### D. The inadequacy of existing regulatory mechanisms

Although CDFG has listed the Santa Cruz cypress as endangered, State law does not adequately protect this species and its habitat. After a landowner has been notified by CDFG that a State-listed plant grows on his or her property, State law requires the landowner to notify the agency "at least 10 days in advance of changing the land use to allow salvage of such plant." Although State law also can provide funding for such measures as research and land acquisition, provisions of the Endangered Species Act would offer needed additional protection for this species and its habitat.

### E. Other natural or manmade factors affecting its continued existence

As discussed earlier, all groves of *Cupressus abramsiana* have been or are subject to periodic wildfire. Encroaching human habitation and utilization likely have altered the natural intervals between fires in the habitat of the Santa Cruz cypress. Fires at too short an interval could lead to the extirpation of a given grove. Conversely, the absence of fire for too long a period may result in successional establishment of competing vegetation, lower grove vitality, and reduced post-fire seedling establishment, increasing the change of constriction or extinction of the affected grove. The natural fire frequency is estimated at between 50 and 100 years, within a minimum of 20 years between fires to avoid extinction (Keeley 1981, summarized in Bartel and Knudsen 1982). Other botanists have estimated that a fire frequency of 35 to 40 years will restore grove vitality (Vogl *et al.* 1977, summarized in Davilla 1980).

The largest tree in the Bonny Doon population was recently cut down. Similar threats are faced by the remaining cypress trees.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Cupressus abramsiana* as endangered. Endangered status, rather than threatened, appears most appropriate because only five small populations of this species remain, and these face current or potential threats from residential development, agricultural conversion, logging, genetic introgression, and disruption of the natural frequency of fires. The Santa Cruz cypress is in danger of extinction throughout its range and it may soon disappear unless appropriate actions are undertaken. Critical habitat is not being designated for the species at this time for the reasons discussed below.

### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor E in the "Summary of Factors Affecting the Species," *Cupressus abramsiana* has been subject to acts of vandalism. Publication of critical habitat

descriptions in the Federal Register would expose the species and its habitat to a greater number of people, thus potentially increasing the risk of further incidents of vandalism. Therefore, it would not be prudent to designate critical habitat for *Cupressus abramsiana* at this time.

### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against collecting are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 (see revised regulations at 51 Federal Register 19926; June 3, 1986). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The only known Federal action that could possibly affect the Santa Cruz cypress involves oil and gas drilling on Butano Ridge. The approval of such oil and gas development plans is the responsibility of the Bureau of Land Management. If the Santa Cruz cypress is likely to be affected by drilling activities, final approval of the drilling would require consultation with the Service pursuant to section 7 of the Act.

The Act and its implementing regulations found at 50 CFR 17.61 and 17.62 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All trade

prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. No trade in this species is known to occur and it is anticipated that few trade permits involving the species will ever be requested. Requests for copies of the regulations of plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1903).

### National Environmental Policy Act

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

### References Cited

- Bartel, J.A., and M.D. Knudsen. 1982. Status review of the Santa Cruz cypress. U.S. Fish and Wildlife Service, Sacramento, California. 7 pp.
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- Libby, J. 1979. *Cupressus abramsiana* goes to court. *Fremontia* 7(3):15.
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- Young, P.G. 1977. Rare plant status report, *Cupressus abramsiana* C.B. Wolf. California Native Plant Society. 2 pp.



**Author**

The primary author of this final rule is Jim A. Bartel, Sacramento Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-1823, Sacramento, California 95825 (916/978-4866 or FTS 460-4866).

**List of Subjects in 50 CFR Part 17**

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

**Regulation Promulgation****PART 17—[AMENDED]**

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

1. The authority citation for Part 17 continues to read as follows:

**Authority:** Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat.

3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12 by adding the following, in alphabetical order under Cupressaceae, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

\* \* \* \* \*  
(h) \* \* \*

Species	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Cupressaceae—Cypress family:						
<i>Cupressus abramsiana</i>	Santa Cruz Cypress	U.S.A. (CA)	E	251	NA	NA

Dated: November 28, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-338 Filed 1-7-87 8:45 am]

BILLING CODE 4310-55-M

**50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Lesquerella filiformis* (Missouri Bladder-pod)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines endangered status for *Lesquerella filiformis* Rollins (Missouri bladder-pod), and annual plant endemic to the unglaciated prairie area of southwest Missouri. *Lesquerella filiformis* is presently known at only nine locations in Dade, Greene, and Christian Counties, Missouri. The species is vulnerable due to low population numbers, limited distribution, and potential destruction of prairie habitat. This measure implements Federal protection provided by the Endangered Species Act of 1973, as amended, for *Lesquerella filiformis*.

**DATE:** The effective date of this rule is February 9, 1987.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

**FOR FURTHER INFORMATION CONTACT:** James M. Engel, Endangered Species Coordinator (see **ADDRESSES** above) (612/725-3276 or FTS 725-3276).

**SUPPLEMENTARY INFORMATION:****Background**

*Lesquerella filiformis*, a member of the mustard family, was first collected in 1887 in Missouri. However, the name *Lesquerella angustifolia* was misapplied to these early collections (Payson 1921). It was not until later that Rollins (1956) described *Lesquerella filiformis*. In later work, Rollins and Shaw (1973), further maintain *Lesquerella filiformis* as a distinct species.

*Lesquerella filiformis* is an annual with erect hairy stems to approximately 20 centimeters (8 inches) in height. Basal leaves are hairy on both surfaces, 1-2.25 centimeters (0.4-0.9 inch) long and 0.3-1 centimeter (0.1-0.4 inch) wide, and broadly rounded, and they taper to a narrow petiole. Stem leaves are 1-3.2 centimeters (0.4-1.3 inches) long, and 1.6-16 millimeters (0.06-0.6 inch) wide, and are also hairy on both surfaces, appearing silvery. Light yellow flowers with four petals usually appear at the tops of the stems in late April or early May (Morgan 1980). Morgan (1983) observed that flowering and seed dispersal usually occur within a period of four weeks. As the green seed capsules develop and mature, they turn light tan, split open, and disperse the seeds, leaving a papery septum attached to the pedicel. The species survives the hot summer in the form of seeds; germination occurs in the fall, and the plants overwinter in the rosette stage. They flower, fruit, and shed seeds when favorable temperatures and peak rainfall occur in the spring (Morgan 1983).

*Lesquerella filiformis* is restricted to the unglaciated prairie region of southwest Missouri at nine sites within Greene, Dade, and Christian Counties. It is believed to be extirpated in Jasper and Lawrence Counties, Missouri. It can

be distinguished from the only other *Lesquerella* species in Missouri, *Lesquerella gracilis* var. *gracilis*, an introduced species, by its gray-silvery appearance.

According to Morgan (1983), *Lesquerella filiformis* is found in open limestone glades where soils are shallow and the underlying limestone bedrock outcrops at or very near the ground surface. Associated species frequently found with *Lesquerella filiformis* are *Arenaria patula*, *Camassia scilloides*, *Northoscordum bivalve*, *Opuntia humifusa*, *Satureja arkansana*, *Tradescantia tharpaii*, *Verbena Canadensis*, and a species of *Sedum*. *Lesquerella filiformis* is usually not dominant within the community (Morgan 1980).

Three of the nine known populations of *Lesquerella filiformis* occur on Missouri State highway rights-of-way and are subject to periodic mowing; four populations are on private land with no protection; and two populations are found within the Wilson's Creek National battlefield (Morgan, personal communication 1985).

Section 12 of the Endangered Species Act of 1973 (Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27823) of its acceptance of this report as a petition within the context of section 4(c)(2) of the Act (petition acceptance is now governed by section 4(b)(3) of the Act, as amended), and of its intention to review the status of the plant taxa named within. *Lesquerella filiformis* was named in the Smithsonian report as

endangered and was included in the Service's 1975 notice of review.

*Lesquerella filiformis* was also included as a category 1 species in an updated notice of review for plants published in the December 15, 1980, **Federal Register** (45 FR 82480). Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened.

The Endangered Species Act Amendments of 1982 required that all petitions, such as that of the Smithsonian, that were still pending as of October 13, 1982, be treated as having been received on that date. Section 4(b)(3) of the Act, as amended, requires that, within 12 months of the receipt of such a petition, a finding be made as to whether the requested action is warranted, not warranted, or warranted but precluded by other activity involving additions to or removals from the Federal Lists of Endangered and Threatened Wildlife and Plants. Therefore, on October 13, 1983, October 12, 1984, and again on October 11, 1985, the Service made the finding that listing of *Lesquerella filiformis* was warranted but precluded by other pending listing activity. A final finding, to the effect that the petitioned action was warranted, was incorporated in a proposed rule to determine endangered status for *Lesquerella filiformis*, issued in the **Federal Register** of April 7, 1986 (51 FR 11874).

#### Summary of Comments and Recommendations

In the proposed rule of April 7, 1986, and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting general public comment were published in the *News-Leader*, Springfield, Missouri, April 19, 1986, and in *The Vedette*, Greenfield, Missouri, April 24, 1986. No public hearing was requested or held. Comments supporting the listing were received from the Missouri Department of Conservation, the Missouri Botanical Garden, and the USDA Forest Service. The International Union for Conservation of Nature and Natural Resources (IUCN) commented that it could provide no further information regarding the species.

The letter from the Missouri Botanical Garden provided information about ongoing propagation research and

advised that the Missouri Botanical Garden is prepared to bring *Lesquerella filiformis* into protective cultivation under the auspices of The Center for Plant Conservation. It also mentioned that populations of *Lesquerella* species tend to fluctuate from year to year. In addition to supporting the listing, the Forest Service advised that although there are potential *Lesquerella filiformis* sites on Forest Service lands in Missouri, no populations have yet been found.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Lesquerella filiformis* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Lesquerella filiformis* Rollins (Missouri bladder-pod) are as follows:

##### A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

*Lesquerella filiformis* occurs at nine locations in the unglaciated prairie area of southwest Missouri in limited portions of Dade, Greene, and Christian Counties. Historical data indicate that *Lesquerella filiformis* has probably never been more widespread than it is at present (Morgan 1983). Morgan (1980) estimated a total of about 550 individual plants within four sites. Although there are now nine known sites, the low number of individual plants (estimated at fewer than 5,000 in 1986) make the species vulnerable to collecting and other human disturbance. Two of the populations are within the Wilson's Creek National Battlefield (WCNB) in Christian and Greene Counties, where a system of interpretive trails extends through the sites. These populations receive some disturbance from visitors to the Battlefield site, but Morgan (1983) concluded that disturbance may help maintain the *Lesquerella filiformis* populations. Over 124,000 people visited Wilson's Creek National Battlefield in 1984; by 1990, it is expected 500,000 people per year may visit the area (D. L. Lane, Superintendent, WCNB, personal communication 1985). Research is needed to determine proper management techniques for

maintenance of the species, especially at disturbed sites. The National Park Service is aware of the significance of *Lesquerella filiformis*. Three populations of *Lesquerella filiformis* occur in Dade County within Missouri highway rights-of-way. Two of these populations extend onto private land. Because of yearly right-of-way treatments, there is a threat of destruction to these populations. Cooperation with the State Department of Highways and Transportation is necessary in order to provide these sites additional protection from accidental mowing or chemical treatment. The remaining four populations are located on private property; two sites in Dade County and one each in Greene and Christian Counties. The Service is not aware of any plans to develop or alter these sites; however, the prairie habitat could be lost due to more intensive agricultural activities.

Morgan (1983) reported that *Lesquerella filiformis* populations can be found on highway rights-of-way for one and two seasons, then disappear completely from these known sites during the subsequent year. Rogers (Missouri Botanical Garden, personal communication, April 24, 1986) also reports that *Lesquerella* populations tend to fluctuate from year to year. Morgan (personal communication 1986) reported that two of the larger populations known in 1984 could not be relocated in 1986. This phenomenon further points up the need for further research and management in order to maintain and promote the species.

##### B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Wildflower collectors may reduce populations in more accessible sites. As Steyermark (1963) pointed out, this plant with handsome yellow flowers makes a desirable addition to rock gardens and may be vulnerable to overcollecting. Plants within the Wilson's Creek National Battlefield cannot be collected without a permit from the National Park Service.

##### C. Disease or Predation

Seed predation by insects and fungal infection of developing capsules have been reported by Morgan (1983). It is not known whether the ensuing loss of reproductive capacity constitutes a significant threat to the species.

##### D. The Inadequacy of Existing Regulatory Mechanisms

*Lesquerella filiformis* is officially listed as endangered by the State of

Missouri. Missouri regulations prohibit exportation, transportation, or sale of plants on the State and Federal lists. Collecting, digging, or picking any rare or endangered plant without permission of the property owner is prohibited. Three populations of *Lesquerella filiformis* are found on State land within highway rights-of-way. Two populations of this species occur on Federal lands administered by the National Park Service. Park Service regulations prohibit the removal of plants from parks other than with a collector's permit; these regulations will be further strengthened by prohibitions of the Endangered Species Act. These restrictions on collecting and trade, however, do not specifically provide for protection or management of the species' habitat.

#### E. Other Natural or Manmade Factors Affecting its Continued Existence

None known.

In determining to issue this final rule, the Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species. Based on this evaluation, the preferred action is to list *Lesquerella filiformis* as an endangered species. Only nine populations of this species are known to exist and four of these populations are on privately owned property and receive no protection or management designed to enhance the species' continued existence.

Endangered status is appropriate because of the vulnerability of this species. For reasons detailed below, it is not considered prudent to designate critical habitat.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The designation of critical habitat is not considered to be prudent when such designation would not be of net benefit to the species involved (50 CFR 424.12). The Service believes that designation of critical habitat for *Lesquerella filiformis* would not be prudent, because no benefit to the species can be identified that would outweigh the potential threats of vandalism or collection, which might be exacerbated by the publication of a detailed critical habitat description and map.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for land acquisition, if necessary, and cooperation with the States. It also requires that recovery actions be carried out for all listed species. These actions are initiated by the Service following listing. The protection required of Federal agencies and applicable prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 (see revision at 51 FR 19926; June 3, 1986). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If an activity may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The National Park Service has jurisdiction over a portion of this species' habitat. Federal activities that could impact *Lesquerella filiformis* and its habitat in the future may include recreational and interpretive development. It has been the experience of the Service that the majority of section 7 consultations are resolved so that the species is protected and the project can continue.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plant species. With respect to *Lesquerella filiformis*, all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export this species, transport it in interstate or foreign commerce in the course of a commercial activity, sell it or offer it for sale in interstate or foreign commerce, or remove it from an

area under Federal jurisdiction and reduce it to possession. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few permits would ever be sought or issued, since this plant is not common in cultivation or in the wild. Requests for copies of the regulations on plants, and inquiries regarding them, may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1903).

#### National Environmental Policy Act

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

#### Literature Cited

- Morgan, S.W. 1980. Status Report on *Lesquerella filiformis* Rollins. Missouri Department of Conservation. Unpub. ms. 15 pp.
- Morgan, S.W. 1983. *Lesquerella filiformis*: an endemic mustard. *Natural Areas Journal* 3:59-62.
- Payson, E.R. 1921. A monograph of the genus *Lesquerella*. *Ann. Missouri Bot. Garden* 8:103-236.
- Rollins, R.C. 1956. On the identity of *Lesquerella angustifolia*. *Rhodora* 58:199-202.
- Rollins, R.C. and E.A. Shaw. 1973. The genus *Lesquerella* (Cruciferae) in North America. Harvard University Press, Cambridge, Pp. 92-95.
- Steyermark, J.A. 1963. *Flora of Missouri*. Iowa State University Press, Ames.

#### Author

The author of this final rule is William F. Harrison (see ADDRESSES section) (612/725-3276 or FTS 725-3276).

#### List of Subjects in 50 CFR Part 17

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

#### Regulation Promulgation

#### PART 17—[AMENDED]

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

1. The authority citation for Part 17 continues to read as follows:

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

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Brassicaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Brassicaceae—Mustard family:						
<i>Lesquerella filiformis</i>	Missouri bladder-pod	U.S.A. (MO)	E	252	NA	NA

Dated: November 28, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-337 Filed 1-7-87; 8:45 am]

[BILLING CODE 4310-55-M]

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 663

[Docket No. 70101-7001]

#### Pacific Coast Groundfish Fishery

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

**ACTION:** Notice of final 1987 fishery specifications.

**SUMMARY:** NMFS announces the final 1987 specifications for Pacific coast groundfish caught in the ocean off Washington, Oregon, and California. The specifications include the acceptable biological catch (ABC), the optimum yield (OY) quota, and the distribution of the optimum yield among domestic and foreign fishing operations as required by the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP). The intended effect of this action is to establish allowable harvests of Pacific coast groundfish from the exclusive economic zone and territorial waters in 1987.

**EFFECTIVE DATE:** January 1, 1987, until modified, superseded, or rescinded.

**FOR FURTHER INFORMATION CONTACT:** Rolland A. Schmitt (Director, Northwest Region, NMFS) at 206-526-6150, or E. Charles Fullerton (Director, Southwest Region, NMFS) at 213-514-6196.

**SUPPLEMENTARY INFORMATION:** The implementing regulations for the FMP at 50 CFR Part 663 state that management specifications for groundfish will be

evaluated each calendar year, preliminary specifications for the succeeding calendar year will be published in the **Federal Register**, public comments will be requested, and final specifications will be published near the beginning of the succeeding calendar year.

The management specifications include the ABC for all groundfish species, which is an estimate of the annual catch that could be taken without jeopardizing a resource's biological productivity, and the OY quota for each six species (Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, widow rockfish, and, north of 39°N. latitude, jack mackerel), which is based on socio-economic as well as biological factors and thus is not necessarily equal to the ABC. The OYs for these six species set the maximum amounts of fish (in round weight) that may be retained or landed each year from the exclusive economic zone (3-200 nautical miles) and the territorial sea (0-3 nautical miles) off Washington, Oregon, and California.

The OY for each of these six species is distributed between domestic and foreign fisheries. The domestic annual harvest (DAH), which consists of estimates of domestic annual processing (DAP) and joint venture processing (JVP), is based on the needs of the domestic fishing and processing industries as determined by surveys in September and June. The total allowable level of foreign fishing (TALFF) is the remainder, if any, of the OY after DAH has been subtracted. Before TALFF is designated, a reserve of 20 percent of the OY is established for each species in case domestic needs are greater than initially estimated.

The OYs and ABCs may be changed during the year, within limits, under the procedures outlined in the regulations at § 663.22.

The Pacific Fishery Management Council (Council) reviewed and approved preliminary specifications for

the 1987 ABCs and OYs and received public comments at its September 17-18, 1986, meeting. Following this meeting Council's Groundfish Management Team issued updated biological analyses for some species which the Council then released to the public; the new data thus were considered to be the best scientific information available at the time. As a result, the preliminary specifications for 1987 as announced at 51 FR 43057 (November 28, 1986) differ in some cases from the amounts the Council recommended in September. Furthermore, the Council had recommended increases in the 1987 ABCs for widow and chilipepper rockfishes exceeding their 1986 ABCs by more than 30 percent. Annual increases of ABC are limited to 30 percent above the levels set at the beginning of the previous year by the regulations at § 663.24.

Written public comments on the preliminary specifications were requested through December 15, 1986; none were received. Extensive public review occurred, however, at the November 18-20, 1986, Council meeting, the last opportunity in 1986 for the Council to recommend final specifications for 1987. The Council considered public comments expressed at that meeting in addition to advice from the Council's Groundfish Select Group (industry representatives and fishery managers), Groundfish Advisory Subpanel (industry and consumer representatives), Groundfish Management Team (State and Federal fishery and social scientists), and Scientific and Statistical Committee (State, Federal, and university scientists) in recommending final specifications to NMFS. The Council recommended the following revisions to the preliminary specifications for Pacific whiting and Pacific ocean perch in 1987.

#### Pacific Whiting

The OY Pacific whiting remains as proposed at 195,000 mt. However, the preliminary estimate for joint venture

purchases of Pacific whiting was too high; thus we are shifting 6,000 mt from JVP to TALFF. Accordingly, the estimate for JVP is decreased from 120,000 mt to 114,000 mt, the estimate for DAH is decreased from 135,000 mt to 129,000 mt, and the TALFF preliminarily designated at 21,000 mt is increased to 27,000 mt. The reserve remains the same at 39,000 mt.

#### Pacific Ocean Perch

The notice announcing the preliminary specifications stated that the 1987 OY for Pacific ocean perch would be less than the 1986 OY of 1,550 mt (600 mt in the Vancouver subarea and 950 mt in the Columbia subarea), but that the exact number was not available, pending receipt of a report from the Council's Groundfish Management Team. Subsequently, the Team reported that in the absence of directed fishing for Pacific ocean perch, 1,300 mt of that species would be caught

incidentally while fishing for other species. Even though the Council recommended setting the 1987 ABCs for Pacific ocean perch at zero in the Vancouver and Columbia subareas, it acknowledged the unavoidable incidental catches and recommended a 1987 OY of 1,300 mt (divided into OYs of 500 mt in the Vancouver subarea and 800 mt in the Columbia subarea). These OYs, in conjunction with trip limits to be imposed in 1987, will enable incidental catches to be landed, while discouraging directed fishing.

Two technical changes also are made to Table 1 of the preliminary specifications. The first is correction of a typographical error where the total ABC for widow rockfish of 12,000 metric tons (mt) should have been 12,100 mt. All other references to the widow rockfish ABC in the preliminary specifications gave the correct value of 12,100 mt. The second is inclusion of arrowtooth

flounder in the "other flatfish" category rather than in the "other fish" category. ("Other fish" is used for miscellaneous species with little commercial or recreational importance). Markets have developed for this species which once was discarded routinely, and it therefore should be included with species of its kind. There is no ABC estimate for arrowtooth flounder so there are no changes to the ABC estimates for "other flatfish" or "other fish." This is a bookkeeping matter; no changes in fishing operations will result.

All other ABC and OY designations for 1987 remain the same as proposed in the preliminary specifications. After considering this information, the Secretary of Commerce concurs with the Council's recommendations, including the revisions stated above, and in the absence of other public comment announces the final specifications for 1987 in Tables 1 and 2.

TABLE 1.—FINAL ESTIMATES OF ABC FOR 1987 IN METRIC TONS (MT) FOR GROUND FISH OFF WASHINGTON, OREGON, AND CALIFORNIA BY INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION AREAS

Species	Vancouver <sup>1</sup>	Columbia	Eureka	Monterey	Conception	Total
Roundfish:						
Lingcod.....	1,000	4,000	500	1,100	400	7,000
Pacific cod.....	2,200	900	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>	3,100
Pacific whiting.....						<sup>3</sup> 195,000
Sablefish.....						<sup>3</sup> 12,000
Rockfish:						
Pacific ocean perch.....	0	0	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>	0
Shortbelly.....						<sup>3</sup> 10,000
Widow.....						<sup>3</sup> 12,100
Other Rockfish: <sup>4</sup>						
Bocaccio.....	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>	4,100	2,000	6,100
Canary.....	800	<sup>5</sup> 2,100	600	<sup>2</sup>	<sup>2</sup>	3,500
Chilipepper.....						<sup>3</sup> 3,000
Yellowtail.....	1,100	<sup>5</sup> 2,600	300	<sup>2</sup>	<sup>2</sup>	4,000
Remaining rockfish.....	800	<sup>5</sup> 3,700	1,900	4,300	3,300	14,000
Flatfish:						
Dover sole.....						
English sole.....	2,400	11,500	8,000	5,000	1,000	27,900
Petrale sole.....						<sup>3</sup> 1,900
Other flatfish.....	600	1,100	500	800	200	3,200
Other Fish: <sup>6</sup>	700	3,000	1,700	1,800	500	7,700
Jack mackerel <sup>7</sup> .....						12,000
Others.....	2,500	7,000	1,200	2,000	2,000	14,700

<sup>1</sup> U.S. portion.

<sup>2</sup> These species are not common or important in the area footnoted. Accordingly, for convenience, Pacific cod is included in the "Others" category for the areas footnoted and rockfish species are included in the "Remaining rockfish" category for the areas footnoted only.

<sup>3</sup> Total all areas.

<sup>4</sup> "Other rockfish" means rockfish species at §663.2, as amended, which do not have a numerical OY.

<sup>5</sup> For management of the *Sebastes* complex of rockfish, the Columbia area is split into northern and southern parts at Coos Bay, Oregon (43°21'34" N. latitude), and ABCs for the Columbia area are prorated as follows:

	Columbia area (total)	North of Coos Bay	South of Coos Bay
Canary.....			
Yellowtail.....	2,100	1,700	400
Remaining rockfish.....	2,600	2,500	100
	3,700	3,300	400

<sup>6</sup> "Other fish" includes sharks, skates, rattfish, morids, grenadiers, jack mackerel, and, in the Eureka, Monterey, and Conception areas, Pacific cod. "Other fish" is part of the "Other species" category listed at § 663.2.

<sup>7</sup> North of 39° N. latitude.

TABLE 2.—FINAL SPECIFICATIONS OF OY AND ITS DISTRIBUTION FOR 1987 IN THOUSANDS OF METRIC TONS FOR GROUND FISH OFF WASHINGTON, OREGON, AND CALIFORNIA

Species	Total OY	DAP	JVP <sup>1</sup>	DAH	Reserve	TALFF <sup>1</sup>
Pacific whiting.....	195.0	15.0	114.0	129.0	39.0	27.0
Sablefish.....	<sup>2</sup> 12.0	12.0	0.0	12.0	0.0	0.0
Pacific ocean perch.....	<sup>3</sup> 1.3	1.3	0.0	1.3	0.0	0.0
Shortbelly rockfish.....	10.0	1.0	5.0	6.0	2.0	2.0
Widow rockfish.....	12.5	12.5	0.0	12.5	0.0	0.0
Jack mackerel.....	12.0	0.0	0.0	0.0	2.4	9.6
Other species.....	<sup>4</sup>					

<sup>1</sup> In the foreign trawl and joint venture fisheries for Pacific whiting, incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) are: Sablefish 0.173 percent; Pacific ocean perch 0.062 percent; rockfish excluding Pacific ocean perch 0.738 percent; flatfish 0.1 percent; jack mackerel 3.0 percent; and other species 0.5 percent. In foreign trawl and joint venture fisheries, "other species" means all species, including nongroundfish species, except Pacific whiting, sablefish, Pacific ocean perch, rockfish excluding Pacific ocean perch, flatfish, jack mackerel, and prohibited species. In a foreign trawl or joint venture fishery for species other than Pacific whiting, incidental allowance percentages will be stated in the conditions and restrictions to the foreign fishing permit. See § 611.70(c)(2) for application of incidental retention allowance percentages to joint venture fisheries.

<sup>2</sup> Of this 12,000 metric tons, 2,500 metric tons is for part of the Monterey subarea. See § 663.21(a)(2).

<sup>3</sup> Of this 1,300 metric tons, 500 metric tons is for the Vancouver subarea and 800 metric tons is for the Columbia subarea. Pacific ocean perch from other subareas are included in the OY for "other species." See § 663.21(a)(3).

<sup>4</sup> The total OY for "other species" is that amount of fish that may be lawfully harvested and/or processed under § 611.70 and Part 663. See § 663.2 for species listing.

#### Classification

This action is taken under the authority of 50 CFR 663.24 and is in compliance with Executive Order 12291. This action is covered by the Regulatory

Flexibility Analysis prepared for the implementing regulations.

#### List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Foreign relations.  
(16 U.S.C. 1801 *et seq.*)

Dated: January 2, 1987.

William E. Evans,

Assistant Administrator For Fisheries,  
National Marine Fisheries Service.

[FR Doc. 87-292 Filed 1-5-87; 4:31 pm]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register

Vol. 52, No. 5

Thursday, January 8, 1987

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 86-330]

#### 7 CFR Part 319

#### Importation of Fruits and Vegetables From Definite Areas or Districts

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Fruits and Vegetables regulations by adding criteria which would have to be met before a permit would be issued for importation of fruits and vegetables from "definite areas or districts" in a foreign country when that country is infested by injurious insects. These amendments appear to be necessary to protect against the introduction into the United States of injurious insects.

**DATE:** Comments must be received on or before February 9, 1987.

**ADDRESS:** Written comments concerning this proposed rule should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86-330. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 637, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8248.

**SUPPLEMENTARY INFORMATION:** The Fruits and Vegetables regulations in 7 CFR 319.56 *et seq.* (referred to below as

the regulations) impose restrictions on the importation of fruits and vegetables in order to prevent the introduction and dissemination of injurious insects, including fruit and melon flies, which are new to or not widely distributed within and throughout the United States. Generally, the regulations in § 319.56-2(e) provide that fruits and vegetables may be imported without a permit when they have been dried, cured or processed in a manner which entirely eliminates the risk that the fruits and vegetables harbor insect pests, or when they are imported from certain countries such as Canada which do not present a risk of spreading injurious insects. The regulations also provide three options for importing fruits and vegetables under a permit issued by the United States Department of Agriculture (the Department) which specifies conditions of importation which will prevent the entry of injurious insects. Specifically, § 319.56-2(e) states that fruits and vegetables may be imported under a permit:

[O]n presentation of evidence satisfactory to the United States Department of Agriculture either: (1) That such fruits and vegetables are not attacked in the country of origin by injurious insects, including fruit and melon flies (Tephritidae), or (2) that their importation from definite areas or districts under approved safeguards prescribed in the permit can be authorized without risk, or (3) that they have been treated, or are to be treated, in accordance with such conditions and procedure as may be prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, under the supervision of a plant quarantine inspector of the said Department.

The Department believes that it is necessary to propose specific criteria for the importation of fruits and vegetables from definite areas and districts in order to provide additional protection against the possibility that an injurious insect species might become established in a definite area or district formerly free from that insect species. Since each definite area or district exists in a country infested by injurious insects, there is an ever present danger that such insects could spread into the definite area or district. To ensure that fruits and vegetables imported from such definite areas and districts are free from injurious insects, the Department is proposing to add specific conditions that would have to be satisfied in order for a permit to be issued under option (2).

Also, the Department is proposing to split option (2) into two separate options, one of which applies to importations from areas or districts totally free from injurious insects, and the second of which applies to importations from areas or districts free from only certain injurious insects.

The Department does not propose at this time to add specific criteria for importations under option (1) of § 319.56-2(e), since that provision deals with entire countries which are free from injurious insects. The Department believes that the risk that an injurious insect would become established in a country without detection is significantly less than the risk that an injurious insect species present in a country would spread into a definite area or district in that country.

Accordingly, the Department proposes to change the language of § 319.56(2)(e) to allow the importation of a fruit or vegetable under a permit:

[O]n presentation of evidence satisfactory to the United States Department of Agriculture either: (1) That such fruit or vegetable is not attacked in the country of origin by injurious insects, including fruit and melon flies (Tephritidae), or (2) that such fruit or vegetable has been treated or is to be treated for all injurious insects which attack it in the country of origin, in accordance with such conditions and procedures as may be prescribed by the Deputy Administrator, Plant Protection and Quarantine, or (3) that its importation from definite areas or districts in the country of origin which are free from all injurious insects which attack such fruit or vegetable can be authorized without risk, provided the criteria of paragraph (f) of this subsection are met, or (4) that its importation from definite areas or districts in the country of origin which are free from certain injurious insects which attack such fruit or vegetable can be authorized without risk, provided the criteria of paragraph (f) of this subsection are met with regard to those certain insects, and provided that all other injurious insects which attack such fruit or vegetable in the area or district of origin have been eliminated from such fruit or vegetable by treatment or such other procedures as may be prescribed by the Deputy Administrator, Plant Protection and Quarantine for all other injurious insects.

This proposed change would change the order of the options under which a fruit or vegetable could be imported to improve readability by changing former option (3) to new option (2), and would break the former option (2) dealing with definite areas and districts into two options, (3) and (4), dealing respectively

with areas and districts free from all injurious insects and areas and districts free from only certain injurious insects. The criteria which would have to be met to establish a definite area or district for purposes of importations under § 319.56-2(e)(3) and (4) would be set forth in a new paragraph (f) which would read as follows:

(f) The Deputy Administrator must determine that the following criteria are met in order for a fruit or vegetable to be authorized importation under § 319.56-2(e)(3) or (4). When used to authorize importation under § 319.56-2(e)(3), the criteria must be applied to all injurious insects which attack the fruit or vegetable, and when used to authorize importation under § 319.56-2(e)(4), the criteria must be applied to those particular injurious insects from which the area is to be considered free: (1) There are no reports in the scientific literature of occurrence in the definite area or district of the country of origin of injurious insects known to attack fruits or vegetables; (2) the plant protection service of the country of origin within the past 12 months has established the absence of infestations of such injurious insects in the definite area or district based on surveys performed in accordance with requirements which have been approved by the Deputy Administrator as adequate to detect such infestations; and (3) the country of origin has adopted and is enforcing requirements to prevent the introduction of such injurious insects into the definite area or district of origin which are deemed by the Deputy Administrator to be at least equivalent to those requirements imposed under this chapter to prevent the introduction into the United States and interstate spread of injurious insects.

Use of proposed § 319.56-2(e)(3) in combination with the criteria in § 319.56-2(f) would allow a fruit or vegetable to be imported from a definite area or district without undergoing treatment for injurious insects which attack the fruit or vegetable, after it has been determined that such injurious insects do not occur in the area or district as evidenced by negative surveys and the absence of reports of such insects in the scientific literature. Also, such injurious insects must be excluded from the area or district by active enforcement of requirements preventing their introduction.

Use of proposed § 319.56-2(e)(4) in combination with the criteria in § 319.56-2(f) would allow importation of a fruit or vegetable from definite areas or districts even though the areas or districts do include certain injurious insects which attack the fruit or vegetable, when the injurious insects on such articles have been eliminated by treatment or such other procedures as may be prescribed by the Deputy Administrator, Plant Protection and Quarantine.

Thus, the effect of the proposed changes would be to establish one set of circumstances in which fruits and vegetables may be imported without treatment from an area free from all injurious insects, and another set of circumstances in which fruits and vegetables may be imported from an area free from some injurious insects but containing other injurious insects, if any injurious insects which do occur in the area and are present on articles to be imported are eliminated by treatment or other procedures specified by the Deputy Administrator.

#### Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule would have an effect on the economy of less than \$100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The primary effect of adoption of this proposal would be to establish criteria which the Department would use in making decisions about when to allow importations of fruits and vegetables from definite areas or districts under the provisions of § 319.56-2(e)(3) and (4). It is not expected that the proposed rule would have a major effect on the amount or types of fruit imported into the United States, or that there would be any adverse economic effect on small domestic growers and importers. The total annual increase in the amount of fruits and vegetables imported as a result of this proposed rule would be insignificant compared to the total amount of fruits and vegetables imported annually.

If the proposed criteria for definite areas and districts concerning survey and regulatory measures are adopted, it is anticipated that all countries that seek to ship to the United States significant quantities of affected articles from definite areas or districts would conduct the survey and regulatory measures. Further, it appears that compliance with the proposed survey and regulatory measures would not cause significant increases in the costs of affected articles.

Under the circumstances referred to above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the information collection provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Written comments concerning any information collection provisions should be submitted to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. A duplicate copy of such comments should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and 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).

#### List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

#### PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, 7 CFR Part 319 is amended as follows:

1. The authority citation for 7 CFR Part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167; 7 CFR 2.17, 2.51, and 371.2(c)

2. Paragraph (e) of § 319.56-2 would be revised to read as follows without revising the language in footnotes 1 and 2:

#### § 319.56-2 Restrictions on entry of fruits and vegetables.

(e) Any other fruit or vegetable, except as restricted to certain countries and districts by special quarantines<sup>2</sup> and other orders<sup>1</sup> now in force and by such restrictive orders as may hereafter



be promulgated, may be imported from any country under permit and on compliance with the regulations in this subpart, at such ports as shall be authorized in the permits, on presentation of evidence satisfactory to the United States Department of Agriculture either:

(1) That such fruit or vegetable is not attacked in the country of origin by injurious insects, including fruit and melon flies (Tephritidae), or

(2) That such fruit or vegetable has been treated or is to be treated for all injurious insects which attack it in the country of origin, in accordance with such conditions and procedures as may be prescribed by the Deputy Administrator, Plant Protection and Quarantine, or

(3) That its importation from definite areas or districts in the country of origin which are free from all injurious insects which attack such fruit or vegetable can be authorized without risk, provided the criteria of paragraph (f) of this subsection are met, or

(4) That its importation from definite areas or districts in the country of origin which are free from certain injurious insects which attack such fruit or vegetable can be authorized without risk, provided the criteria of paragraph (f) of this subsection are met with regard to those certain insects, and provided that all other injurious insects which attack such fruit or vegetable in the area or district of origin have been eliminated from such fruit or vegetable by treatment or such other procedures as may be prescribed by the Deputy Administrator, Plant Protection and Quarantine, for all other injurious insects.

\* \* \* \* \*

#### § 319.56-2 [Amended]

3. Paragraph (f) of § 319.56-2 would be redesignated as (g).

4. A new paragraph (f) would be added to § 319.56-2, to read as follows:

\* \* \* \* \*

(f) The Deputy Administrator must determine that the following criteria are met in order for a fruit or vegetable to be authorized importation under § 319.56-2(e)(3) or (4). When used to authorize importation under § 319.56-2(e)(3) the criteria must be applied to all injurious insects which attack the fruit or vegetable, and when used to authorize importation under § 319.56-2(e)(4) the criteria must be applied to those particular injurious insects from which the area is to be considered free:

(1) There are no reports in the scientific literature or reports from APHIS inspectors of occurrence in the

definite area or district of the country of origin of injurious insects known to attack fruits or vegetables;

(2) The plant protection service of the country of origin within the past 12 months has established the absence of infestations of such injurious insects in the definite area or district based on surveys performed in accordance with requirements which have been approved by the Deputy Administrator as adequate to detect such infestations; and

(3) The country of origin has adopted and is enforcing requirements to prevent the introduction of such injurious insects into the definite area or district of origin which are deemed by the Deputy Administrator to be at least equivalent to those requirements imposed under this chapter to prevent the introduction into the United States and interstate spread of injurious insects.

\* \* \* \* \*

Done at Washington, DC, this 2nd day of January, 1987.

W.F. Helms,

*Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.*

[FR Doc. 87-340 Filed 1-7-87; 8:45 am]

BILLING CODE 3410-34-M

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 218

#### Payments by Electronic Funds Transfer

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Minerals Management Service (MMS) is proposing to amend 30 CFR Part 218 to lower the threshold, from \$50,000 to \$10,000, for royalty payments required to be made by Electronic Funds Transfer (EFT) using the Federal Reserve Communications System link to the Treasury Financial Communication System (TFCS). The proposed rule also would extend the new EFT requirement to include deferred bonus payments from successful bidders in competitive lease sales. This action would accelerate the collection and deposit processing of payments currently received by MMS in the form of checks and result in interest savings to the Government.

**DATE:** Comments must be received on or before March 9, 1987.

**ADDRESS:** Written comments on this proposed rule should be mailed or

delivered to Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Minerals Management Service, P.O. Box 25165, MS 628, Building 85, Denver Federal Center, Denver, Colorado 80225.

#### FOR FURTHER INFORMATION CONTACT:

Interested persons should contact Dennis C. Whitcomb for further information, or if detailed information concerning the implementation and use of EFT/TFCS is desired at (303) 231-3432.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1701 *et seq.*, affirmed the authority and responsibility of the Secretary of the Interior in the implementation of the royalty management system for Federal and Indian leases. The Secretary assigned this authority and responsibility to the MMS by Secretarial Order No. 3071 of January 19, 1982, as amended, and Secretarial Order No. 3087 of December 3, 1982, as amended.

As required by FOGRMA, MMS has implemented procedures to improve methods of accounting and collection of payments for royalties, rentals, bonuses, and other monies due the Federal Government. With respect to payments, MMS previously published regulations at 30 CFR Part 218 that require payors to make payment for royalties of \$50,000 or more by EFT through the TFCS, unless otherwise directed by the Secretary of the Interior.

As a further improvement in the collection of payments, MMS is proposing to amend provisions of Part 218 to lower the threshold from \$50,000 to \$10,000, to extend the EFT requirement to include deferred bonus payments from successful bidders in competitive lease sales, and to revise the references on payment method in Part 218 to be consistent with the amendment. As a result of this amendment, the float time in the collection/deposit of payments would be reduced and more funds would be available to the Government sooner than if the affected payments continue to be received by check. The use of EFT will provide the U.S. Treasury with funds on the actual date of transfer rather than several days later, as with checks.

Because many payors submit lease rental payments prior to the due date to avoid any possibility of lease cancellation and desire a canceled check as evidence of payment, MMS does not propose to extend the new EFT

requirements to rental payments at this time; however, the first-year rental will continue to be paid in accordance with instructions included in the notice of lease offering that may require payment by EFT. MMS is not proposing to change the requirement in 30 CFR 218.155(c) that the first-year rental on an offshore oil, gas, or sulfur lease must be paid by EFT. Payors will continue to have a choice of instruments used for payment of rentals following the first-year rental payment.

A one-fifth bonus bid deposit is required to participate in competitive sales of certain leases. The successful bidder in a competitive sale of an offshore oil, gas, or sulfur lease must pay the remaining four-fifths bonus and the first-year rental to the Royalty Management Accounting Center by EFT in accordance with existing requirements in 30 CFR 218.155(c), unless otherwise directed by the Associate Director for Royalty Management. If permitted under the terms of the sale, as stated in the lease sale notice, the successful bidder in a competitive sale of certain other leases; e.g., coal, geothermal, or offshore minerals other than oil, gas, or sulfur, can elect to pay the remaining four-fifths bonus in total or submit the payment in equal annual installments over a specified number of years. If paid in total, the successful bidder must pay the remaining four-fifths bonus in accordance with instructions included in the notice of lease offering. If the successful bidder is permitted to make installment payments of the remaining four-fifths bonus, MMS is proposing that annual "deferred bonus" payments, which total \$10,000 or more, be by EFT. At the present time, payors have a choice of instruments used for payment of the annual deferred bonus installments.

It is the intent of MMS to phase in the new requirements. The MMS proposes that, after publication of the final rule in the *Federal Register*, the requirements would apply to the next payment due for royalties or deferred bonuses from all payors who are currently submitting royalty payments by EFT. With respect to payors who have not previously used EFT, payments to MMS by EFT would begin only after the payor has received written instructions from the MMS Royalty Management Accounting Center in Lakewood, Colorado.

Detailed information concerning the implementation and use of EFT/TFCS is available and will be provided upon request to interested persons. If detailed information is desired, contact Dennis C. Whitcomb, Chief, Rules and Procedures

Branch, telephone (303) 231-3432, at the address shown in the Address section of this preamble.

## II. Procedural Matters

### *Executive Order 12291 and Regulatory Flexibility Act*

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The proposed rule does not increase the amount of payment due and does not have a significant economic effect; therefore, it is not considered a major rule.

### *Paperwork Reduction Act of 1980*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

### *National Environmental Policy Act of 1969*

The Department of the Interior has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

### List of Subjects in 30 CFR Part 218

Coal, Continental shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indians-lands, Minerals royalties, Oil and gas exploration, Public lands-mineral resources.

Dated: December 1, 1986.

J. Steven Griles,

*Assistant Secretary, Land and Minerals Management.*

For the reasons set out in the preamble, it is proposed that 30 CFR Part 218 be amended as follows:

### SUBCHAPTER A—ROYALTY MANAGEMENT

#### PART 218—[AMENDED]

1. The authority citation for Part 218 is revised to read as follows:

**Authority:** 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

2. Section 218.51 is revised to read as follows:

### § 218.51 Method of payment.

(a) *Payment of royalties.* (1) All payors whose payment obligation to MMS on the payment due date totals \$10,000 or more must make payment by Electronic Funds Transfer (EFT) using the Federal Reserve Communications System (FRCS) link to the Treasury Financial Communications System (TFCS), unless otherwise directed by MMS. Early payment by other than EFT of a portion of the aggregate payment obligation to avoid remittance by EFT on the payment due date is not permitted. Such early payments are permitted regardless of amount, but must be remitted by EFT.

(2) Payors who have not previously submitted payments to MMS by EFT shall begin using EFT only after receipt of written instructions from MMS.

(3) A payor whose aggregate payment obligation reported on a Form MMS-2014 or MMS-4014, or for amount owed for deferred bonuses, is less than \$10,000 must use one of the following payment instruments:

- (i) Federal Reserve check.
- (ii) Commercial check. (Drawn on a solvent bank.)
- (iii) Money order.
- (iv) Bank draft. (Drawn on a solvent bank.)
- (v) Cashier's check.
- (vi) Certified check.
- (vii) Electronic Funds Transfer.

(4) All payment instruments except EFT should be inscribed payable to "Department of the Interior-MMS".

(b) *Payment of bonuses.* (1) One-fifth bonus bid deposit amounts required to participate in competitive lease sales are to be paid in accordance with instructions included in the notice of lease offering.

(2) The successful bidder in the competitive sale of an offshore oil, gas, or sulfur lease shall pay the remaining four-fifths bonus to MMS by EFT in accordance with 30 CFR 218.155(c), unless otherwise directed by MMS.

(3) If permitted under the terms of the sale, as stated in the lease sale notice, the successful bidder in the competitive sale of certain other leases; e.g., coal, geothermal, or offshore minerals other than oil, gas, or sulfur, may elect to pay the remaining four-fifths bonus in total or submit the payment in equal annual installments over a specified number of years. If paid in total, the successful bidder shall pay the remaining four-fifths bonus in accordance with instructions included in the notice of lease offering. If the successful bidder is permitted to make installment payments of the remaining four-fifths bonus, equal

deferred bonus payments are due on the lease anniversary date.

(4) Payments of deferred bonuses to MMS must be in accordance with the regulations governing the payment of royalties contained in 30 CFR 218.51(a).

(c) *Payment of rentals.* First-year rental shall be paid in accordance with instructions included in the notice of lease offering. The successful bidder in the competitive sale of an offshore oil, gas, or sulfur lease shall pay the first-year rental to MMS by EFT in accordance with 30 CFR 218.155(c), unless otherwise directed by MMS. Payments of rentals to MMS (other than the first-year rental) must be made by one of the payment instruments used for paying royalties or deferred bonuses shown in paragraph (a)(3) of this section.

(d) *General payment information.* (1) Payments for offshore and onshore Federal leases shall be segregated from payments for Indian leases. All payments to MMS shall be made by one of the payment instruments used for paying royalties or deferred bonuses shown in paragraph (a)(3) of this section. For payments made by EFT, the deposit message shall include information as specified by MMS.

(2) Failure to make timely or proper payments of any monies due pursuant to leases, permits, and contracts subject to these regulations will result in the collection of the amount past due plus a late-payment charge in accordance with 30 CFR 218.54. Exceptions to this late-payment charge may be granted when estimated payments on mineral production have previously been made in accordance with instructions provided by MMS to the payor.

(3) For payments by check for Indian leases, the following instructions are applicable:

(i) For Indian allotted leases, payments shall be aggregated and identified on a single check for each respective Bureau of Indian Affairs agency/area office that has jurisdiction over the lease(s) for which the payment is made.

(ii) For Indian Tribal leases, payments to MMS shall be aggregated and identified on a single check for each respective Indian Tribe to which the royalty is owed.

(iii) For Indian Tribes utilizing a lockbox, payment shall be aggregated and identified on a single check and sent to the lockbox.

(iv) When aggregate payments are made (single check), the payment identification required in paragraphs (d)(3)(i), (d)(3)(ii) and (d)(3)(iii) of this section shall be provided in a format to be specified by MMS.

(4) In accordance with 30 CFR 243.2, all payments to MMS are due as specified and are not deferred or suspended by reason of an appeal having been filed unless such deferral or suspension is approved in accordance with that section.

(5) Failure to submit payment of any amount owed to the MMS may subject the person who has payment responsibility to the civil penalty provisions of 30 CFR 241.20 and 241.51.

(e) *Where to pay.* (1) The Form MMS-2014 or Form MMS-4014, Report of Sales and Royalty Remittance, and the applicable payment should be mailed to the following address: Royalty Management Program, Minerals Management Service, P.O. Box 5810 T.A., Denver, Colorado 80217. Post Office Box 5640 should be used with the above address to send rental or deferred bonus payments for Federal nonproducing leases not required to be reported on the Form MMS-2014 or Form MMS-4014 report.

(2) Reports and payments delivered to MMS by special couriers or overnight mail should be addressed as follows: Minerals Management Service, Royalty Management Program, Bldg. 85, Denver Federal Center, Room A-212, Revenue and Document Processing, Denver, Colorado 80225.

(3) Payments or reports received after 4 p.m. mountain time at MMS are considered next-day receipts. Mailing a payment or a report or otherwise depositing it for delivery does not constitute receipt for purposes of the regulations in this Title.

3. Section 218.100 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

**§ 218.100 Royalty and rental payments.**

(a) *Payment of royalties and rentals.* As specified under the provisions of the lease, the lessee shall submit all rental payments when due and shall pay in value or deliver in production all royalties in the amounts of value or production determined by MMS to be due.

(c) *Method of payment.* The payor shall tender all payments in accordance with 30 CFR 218.51.

4. Section 218.150 is revised to read as follows:

**§ 218.150 Royalties, net profit shares and rental payments.**

(a) *Payment of royalties, net profit shares and rentals.* As specified under the provisions of the lease, the lessee shall submit all rental payments when due and shall pay in value or deliver in production all royalties and net profit

shares in the amounts of value or production determined by MMS to be due.

(b) *Late payment or underpayment charges.* (1) The failure to make timely or proper payments of any monies due pursuant to leases, permits, and contracts subject to these regulations will result in the collection of the amount past due plus a late payment charge. Exceptions to this late payment charge may be granted when estimated payments on minerals production have previously been made in accordance with instructions provided by MMS to the payor.

(2) Late payment charges are assessed on any late payment or underpayment from the date that the payment was due until the date on which the payment is received by MMS. Payments received after 4 p.m. mountain time, at MMS, on the date due, will be considered as received on the following workday.

(3) Late payment charges apply to all underpayments and payments received after the date due. These charges include production and minimum royalties; assessments for liquidated damages; administrative fees and payments by purchasers of royalty taken in kind; or any other payments, fees, or assessments that a lessee/operator/payor/permittee/royalty taken in kind purchaser is required to pay by a specified date. The failure to pay past due amounts, including late payment charges, will result in the initiation of other enforcement proceedings, including the issuance of civil penalties.

5. Section 218.155, paragraph (a) is revised to read as follows:

**§ 218.155 [Amended]**

(a) *Payment of royalties and rentals.* With the exception of first-year rental, the payor shall tender all payments in accordance with 30 CFR 218.51. First-year rental shall be paid in accordance with paragraph (c) of this section.

6. Section 218.155 is amended by removing paragraph (d) and paragraphs (e) and (f) are redesignated as paragraphs (d) and (e), respectively.

7. A new § 218.156 is added to read as follows:

**§ 218.156 Definitions.**

Terms used in this subpart have the same meaning as in 30 U.S.C. 1702.

**§ 218.200 [Redesignated as § 218.202]**

8. Section 218.200 is redesignated as § 218.202.

9. New §§ 218.200 and 218.201 are added to read as follows:

**§ 218.200 Payment of royalties, rentals and deferred bonuses.**

As specified under the provisions of the lease, the lessee shall submit all rental and deferred bonus payments when due and shall pay in value all royalties in the amount determined by MMS to be due.

**§ 218.201 Method of payment.**

The payor shall tender all payments in accordance with 30 CFR 218.51.

10. Section 218.300 is revised to read as follows:

**§ 218.300 Payment of royalties, rentals and deferred bonuses.**

As specified under the provisions of the lease, the lessee shall submit all rental and deferred bonus payments when due and shall pay in value, all royalties in the amount determined by MMS to be due.

**§ 218.301 [Redesignated as § 218.302]**

11. Section 218.301 is redesignated as § 218.302.

12. A new § 218.301 is added to read as follows:

**§ 218.301 Method of payment.**

The payor shall tender all payments in accordance with 30 CFR 218.51.

[FR Doc. 87-191 Filed 1-7-87; 8:45 am]

BILLING CODE 4310-MR-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 67**

[Docket No. FEMA-6730]

**Proposed Flood Elevation Determinations; Texas; Correction**

**AGENCY:** Federal Insurance Administration, Federal Emergency Management Agency.

**ACTION:** Proposed rule; correction.

**SUMMARY:** This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 51 FR 31678 on September 4, 1986. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for Tarrant County, Texas.

**DATES:** The period for comment will be thirty (30) days following the second publication of this proposed rule in a newspaper of local circulation in the community.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** John L. Matticks, Acting Chief, Risk

Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in Tarrant County, Texas, previously published at 51 FR 31678 on September 4, 1986, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

**List of Subjects in 44 CFR Part 67**

Flood insurance, Flood plains.

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

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

The Proposed Base (100-year) Flood Elevations for locations in Tarrant County, Texas, are correctly revised to read as follows:

Source of flooding	Location	* Elevation in feet national geodetic vertical datum
Ash Creek	Approximately 0.66 mile downstream of confluence of Paschal Branch.	* 657
Bear Creek 1	At City of Azle corporate limits.....	* 675
	Upstream side of corporate limits at South Lake City boundary.	* 577
	Downstream side of corporate limits at South Lake City boundary.	* 592
	Approximately 1,600 feet upstream of Keller corporate limits.	* 611
Briar Creek	Approximately 480 feet upstream of Main Street, City of Keller.	* 687
	Approximately .76 mile upstream of Alta Vista Road.	* 745
	Approximately 600 feet upstream of Old Denton Road.	* 772
	Approximately 200 feet downstream of Liberty School Road.	* 657
Buffalo Creek	Approximately 0.92 mile upstream of Liberty School Road.	* 680
	Approximately 250 feet upstream of FM 730.	* 697
	At confluence with Henrietta Creek.	* 642
Chambers Creek	Upstream side of Interstate Route 35.	* 654
	Upstream side of Harmon Road.....	* 670
	Approximately 1.3 miles upstream of Harmon Road.	* 690
Deer Creek	Approximately 2.8 miles upstream of Harmon Road.	* 723
	Approximately 250 feet upstream of downstream corporate limits.	* 581
Elm Branch	At upstream corporate limits.....	* 593
	At confluence with Village Creek....	* 632
	Upstream side of Forest Hill-Everman Road.	* 643
Stream HEN-1	At confluence with Village Creek....	* 596
	Approximately 1,600 feet downstream of Shelby Road.	* 640

Source of flooding	Location	* Elevation in feet national geodetic vertical datum
Henrietta Creek	At upstream corporate limits.....	* 670
	Approximately 100 feet downstream of White Chapel Road.	* 636
	At downstream Haslet corporate limits.	* 657
Big Fossil Creek	At upstream Haslet corporate limits.	* 685
	Approximately 0.45 mile upstream of Keller-Haslet Road.	* 712
	At Fort Worth corporate limits.....	* 728
Stream BFC-4	Approximately 60 feet upstream of Fort Worth corporate limits.	* 729
	At downstream Country boundary...	* 732
Low Branch	Approximately 200 feet upstream of upstream County boundary.	* 736
	At downstream corporate limits.....	* 615
Marys Creek	Approximately 880 feet upstream of downstream corporate limits.	* 618
	Approximately 1,350 feet downstream of confluence of Marys Tributary 2.	* 676
North Branch of Deer Creek	Upstream side of FM 2871.....	* 701
	Approximately 1,300 feet upstream of U.S. Route 80 (west-bound).	* 725
	Approximately 0.51 mile upstream of Fort Worth corporate limits.	* 742
Paschal Branch	Downstream of downstream corporate limits.	* 765
	Approximately 120 feet upstream of downstream corporate limits.	* 766
South Fork of Deer Creek	At downstream County boundary....	* 676
	Approximately 60 feet upstream of Azle Road.	* 690
South Fork of North Branch of Deer Creek	At downstream County boundary...	* 775
	Approximately 0.8 mile upstream of downstream County boundary.	* 795
South Marys Creek	At downstream County boundary....	* 768
	Approximately 0.3 mile upstream of downstream County boundary.	* 778
Stream BB-6	At confluence with Marys Creek....	* 710
	Upstream side of Diamond Bar Trail.	* 731
	Upstream side of Link Meadow Drive.	* 780
Stream BFC-2A	Approximately 300 feet upstream of County boundary.	* 825
	At confluence with Bear Creek 1....	* 577
Stream CF-5	At upstream County boundary.....	* 577
	At downstream County boundary....	* 657
Stream HEN-2	Approximately 425 feet upstream of downstream County boundary.	* 659
	At downstream County boundary....	* 681
Boaz Creek	Approximately 150 feet upstream of upstream County boundary.	* 703
	At downstream County boundary....	* 667
Stream HEN-1	Approximately 890 feet upstream of confluence with Walnut Creek 2.	* 674
	At downstream County boundary....	* 667
Stream HEN-2	Approximately 0.24 mile upstream of County boundary.	* 672
	Upstream side of Atchison, Topeka, and Santa Fe Railway.	* 703
Stream HEN-2A	Approximately 0.43 mile upstream of Atchison, Topeka, and Santa Fe Railway.	* 707
	At downstream County boundary....	* 735

Source of flooding	Location	* Elevation in feet national geodetic vertical datum
Stream MSC-3	Approximately 430 feet upstream of downstream County boundary	* 738
	At downstream County boundary....	* 738
Stream SC-7	Approximately 1,160 feet upstream of downstream County boundary	* 748
	At downstream County boundary....	* 760
Stream VC-3	Approximately 500 feet upstream of upstream County boundary	* 770
	At downstream County boundary....	* 570
Stream VC-4	Approximately 170 feet upstream of upstream County boundary	* 587
	Approximately 400 feet downstream of County boundary	* 601
Stream VC-5	Approximately 1,600 feet upstream of confluence of Stream VC-4A	* 618
	At confluence with Village Creek....	* 603
Stream VC-6	Upstream side of Rendon Road....	* 627
	Upstream side of Race Street.....	* 656
Stream VC-7	At confluence with Village Creek....	* 628
	Approximately 200 feet upstream of upstream County boundary	* 649
Stream WB-1	At confluence with Village Creek....	* 637
	Approximately 1 mile upstream of Forest Hill-Everman Road	* 663
North Creek	At downstream County boundary....	* 666
	At upstream County boundary.....	* 684
Sycamore Creek	At downstream County boundary....	* 692
	At downstream County boundary....	* 759
Village Creek	Upstream side of North Crowley Clebourne Road	* 774
	At downstream County boundary....	* 566
Walnut Creek 1	At confluence of Elm Branch.....	* 596
	At confluence of Stream VC-6.....	* 628
Walnut Creek 2	Approximately 1,400 feet upstream of most upstream County boundary	* 670
	Confluence with Eagle Mountain Lake	* 657
Walnut Creek 3	At most upstream County boundary	* 668
	Approximately 1,050 feet downstream of Texas and Pacific Railroad	* 670
West Fork Trinity River	Approximately 0.94 mile upstream of Texas and Pacific Railroad	* 701
	At downstream County boundary....	* 537
Willow Branch	At upstream County boundary.....	* 538
	Approximately 550 feet upstream of upstream County boundary	* 610
Whites Branch	Approximately 2,500 feet downstream of confluence of Boyd Branch	* 461
	Approximately 5.0 miles upstream of confluence of Boyd Branch	* 467
Eagle Mountain Lake	At confluence of Stream WF-7.....	* 602
	At Eagle Mountain Dam.....	* 653
Grapevine Lake	Approximately 225 feet downstream of downstream County boundary	* 600
	Approximately 0.64 mile upstream of Private Road	* 624
Eagle Mountain Lake	Approximately 2.2 miles upstream of confluence with Big Fossil Creek	* 583
	Approximately 2.3 miles upstream of confluence with Big Fossil Creek	* 586
Grapevine Lake	Entire shoreline within the County	* 657
	Entire shoreline within the County	* 564

Source of flooding	Location	* Elevation in feet national geodetic vertical datum
Benbrook Lake	Entire shoreline with the County.....	* 715

Maps available for inspection at 100 East Weatherford, Fort Worth, Texas.  
Send comments to The Honorable Jim Stewart, Director of Public Works of Tarrant County, 100 East Weatherford, Fort Worth, Texas 76102.

Issued: December 24, 1986.  
**Harold T. Duryee,**  
*Administrator, Federal Insurance Administration.*  
[FR Doc. 87-323 Filed 1-7-87; 8:45 am]  
**BILLING CODE 6718-03-M**

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**  
**45 CFR Part 1180**  
**Institute of Museum Services; Museum Assessment Program**  
**AGENCY:** Institute of Museum Services, NFAH.  
**ACTION:** Proposed regulations.

**SUMMARY:** The Institute of Museum Services issues a proposed amendment to its regulations for the Museum Assessment Program. Financial data based on administering the program indicates that the total cost of program operation has, in general, not been covered by the amount available in the form of a MAP grant. The Board has, therefore, determined that the ceiling should be increased to \$1,400 in order to facilitate continued operation of the program.  
**DATE:** Comments must be received on or before February 9, 1987.  
**ADDRESS:** Comments should be addressed to Lois Burke Shepard, Institute of Museum Services, Room 510, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Ruth Weant, Program Director Telephone: (202) 786-0539.

**SUPPLEMENTARY INFORMATION:**  
**General Background**  
The Museum Services Act ("the Act") Title II of the Arts, Humanities and Cultural Affairs Act of 1976, as amended, establishes an Institute of Museum Services (IMS). IMS is an independent agency placed in the National Foundation on the Arts and the Humanities. The purpose of the Act is stated in section 202, in pertinent part, as follows:

It is the purpose of the Museum Services Act . . . to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage. . . .

The Act lists a number of illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public.

**The Need for the Amendment**

The Institute's regulations contain provisions relating to the Institute's Museum Assessment Program (MAP) which has been conducted since fiscal year 1981. 45 CFR 1180.70-1180.76. MAP is designed to assist museums in carrying out institutional assessments. Grants enable museums to obtain technical assistance in order to evaluate their programs and operations according to generally accepted professional standards. A museum which receives a grant under the program requests assessment from an appropriate professional organization, a term which is defined in the Institute's regulations. See 45 CFR 1180.74(b).

Under present regulations, the amount of a grant to a museum under the program may not exceed \$1,000. 45 CFR 1180.73(b). The National Museum Services Board has determined that this ceiling, which was set in 1985, does not meet the reasonable costs of assessment. Financial data based on administering the program indicates that the total cost of program operation has, in general, not been covered by the amount available in the form of a MAP grant. The Board has, therefore, determined that the ceiling should be increased to \$1,400 in order to facilitate continued operation of the program.

The purpose of the amendment set forth below is to increase the ceiling in accordance with this policy determination of the Board. The Board believes that the program has been successful in achieving its stated objectives and in carrying out the purposes of the Museum Services Act for many museums which otherwise could not be reached by other forms of assistance available under the Act. Accordingly, the Board believes that the amendment will contribute significantly to meeting the purposes of the Act.

**Executive Order 12291**

This amendment has been reviewed in accordance with Executive Order 12291. It is classified as non-major because it

does not meet the criteria for major regulations established in the order.

#### Regulatory Flexibility Act Certification

The Director certifies that the amendment will not have a significant economic impact on a substantial number of small museums. To the extent that it affects States and State agencies it will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act. The amendment will affect certain museums receiving federal financial assistance under the Museum Services Act. However, it will not have significant economic impact on the small entities affected because it does not impose excessive regulatory burdens or require unnecessary federal supervision.

#### Paperwork Reduction Act of 1980

These regulations do not contain any information collection requirements under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

#### Invitation to Comment

Interested persons are invited to submit comments and recommendations

regarding the proposed amendment. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before February 9, 1987, will be considered before final regulations are issued.

All comments submitted in response to the proposed amendment will be available for public inspection, during and after the comment period, at the Institute of Museum Services, Room 510, 1100 Pennsylvania Avenue NW., Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

#### List of Subjects in 45 CFR Part 1180

Museums, National boards.

Dated: January 5, 1987.

**Lois Burke Shepard,**

*Director, Institute of Museum Services.*

(Catalog of Federal Domestic Assistance No. 45.301, Museum Services Program)

The Institute of Museum Services proposes to amend Part 1180 of Title 45

of the Code of Federal Regulations as set forth below:

1. The authority citation for Part 1180 continues to read as follows:

Authority: 20 U.S.C. 961 et seq.

2. Revise § 1180.73(b) to read as follows:

#### § 1180.73 Form of assistance; limitation on amount.

\* \* \* \* \*

(b) The amount of a grant to a museum under this subpart may not exceed \$1,400.

[FR Doc. 87-383 Filed 1-7-87; 8:45 am]

BILLING CODE 7036-01-M

## Notices

Federal Register

Vol. 52, No. 5

Thursday, January 8, 1987

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

#### Agricultural Stabilization and Conservation Service

#### 1987 National Marketing Quota and 1987 Price Support Level for Burley Tobacco

**AGENCY:** Agricultural Stabilization and Conservation Service (ASCS) and Commodity Credit Corporation (CCC).

**ACTION:** Notice of proposed determinations.

**SUMMARY:** The Secretary of Agriculture is required to determine and announce by February 1, 1987, the amount of the national marketing quota and related matters for burley tobacco for the 1987-88 marketing year. The quota must be based on domestic manufacturers' purchase intentions, the three-year average of exports, an adjustment to maintain producer-owned cooperative marketing association inventories (reserve stock level) at the prescribed level, and, if determined necessary by the Secretary, an additional adjustment in the total of these three components. In addition, the Secretary must, insofar as practicable, announce the level of price support for the 1987-88 marketing year in advance of the planting season. These determinations are made in accordance with the Agricultural Adjustment Act of 1983, as amended (the "1938 Act") and the Agricultural Act of 1949, as amended (the "1949 Act") respectively.

**DATE:** Comments must be received on or before January 23, 1987 in order to be assured of consideration.

**ADDRESS:** Send comments to Dr. Howard C. Williams, Director, Commodity Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-3391. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday

through Friday, in Room 3741-South Building, 14th and Independence Avenue, SW., Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Robert Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, USDA, Room 3741-South Building, P.O. Box 2415, Washington, DC 20013, (202) 447-5187. A Preliminary Regulatory Impact Analysis is available from Mr. Tarczy.

**SUPPLEMENTARY INFORMATION:** This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation 1512-1 and has been classified "not major." The provisions of this proposed notice will not result in: (1) An annual effect on the economy of \$100 million or more, (2) a major increase in costs of prices for consumers, individual industries, Federal, State or local Governments, or geographical regions, or significant adverse effects on competition, employment, investment, productivity, innovation, the environment or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this proposed notice applies are: Title—Commodity Loans and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since neither the Agricultural Stabilization and Conservation Service nor the Commodity Credit Corporation are required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Section 1108(a) Consolidated Omnibus Budget Reconciliation Act of 1985 (the "1985 Act") provides that the subject matter of this notice is not subject to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, United States Code, or in any directive of the Secretary. However, numerous comments were received by the Department with respect to the manner in which the determination was made of the quantity of tobacco that was exported in the previous three years for purposes of establishing the national

marketing quotas for the 1986 crops of flue-cured and burley tobacco. Therefore, comments are requested with regard to the method used in determining this quantity in establishing the national marketing quota for the 1987 crop of burley tobacco. In order to provide an accurate basis for interested persons to submit comments on this issue, this notice sets forth the Department's most current information to be used in establishing the 1987 national marketing quota for burley tobacco.

#### Marketing Quotas

The 1938 Act requires the Secretary to announce by February 1, 1987, the amount of the national marketing quota for the 1987-88 marketing year.

The 1987-88 marketing year is the second year of the three consecutive years for which marketing quotas approved by producers in a national referendum will be in effect for burley tobacco.

Section 319 of the 1938 Act (7 U.S.C. 1314e) provides, in part, that the national marketing quota for a marketing year for burley tobacco is the quantity of such tobacco that is not more than 103 percent nor less than 97 percent of the total of: (1) The amount of burley tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on U.S. auction markets or from producers, (2) the average quantity exported annually from the U.S. during the three marketing years immediately preceding the marketing year for which the determination is being made, and (3) the quantity, if any, necessary to adjust loan stocks to the reserve stock level. Section 319(a)(3)(B) further provides that, with respect to the 1986 through 1989 marketing years, any reduction in the national marketing quota being determined shall not exceed six percent of the previous year's national marketing quota. The "reserve stock level" is defined in section 301(b)(14)(D) of the 1938 Act as the greater of 50 million pounds or 15 percent of the national marketing quota for burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 320A of the 1938 Act provides that all domestic manufacturers of cigarettes with more than 1 percent of

U.S. cigarette production and sales shall submit to the Secretary a statement of purchase intentions for the 1987 crop of burley by January 15, 1987. Six such manufacturers were required to submit such a statement for the 1986 crop and the total of their intended purchases for the 1986 crop was 303.7 million pounds.

Burley tobacco exports, as recorded by the Bureau of Census, were 153.6 million pounds for the 1984-85 marketing year (October-September) and 150.6 million pounds for the 1985-86 marketing year. The Economic Research Service (ERS), USDA, estimates that Census-recorded exports will total 150.0 million pounds for the 1986-87 marketing year, making the projected 3-year average 151.4 million pounds.

However, domestic cigarette manufacturers export a certain amount of processed tobacco (blends) declared as unmanufactured tobacco, or as smoking tobacco in bulk but which are included in the domestic manufacturers' purchase intentions. Also, some leaf exporters may declare as flue-cured tobacco certain blends containing burley tobacco and also reexport foreign-grown burley tobacco. Because of these conditions, the Secretary made an adjustment in burley tobacco exports. This adjustment was based on the difference between Census-recorded exports of burley tobacco and indicated exports (total trade purchases less manufacturers' purchases). For the 1984 and 1985 marketing years, the adjusted levels of exports are 141 million pounds and 165 million pounds, respectively. Based on historical data for the 1984 and 1985 marketing years, an upward adjustment of 0.8 million pounds is proposed in establishing the 1986 exports. Thus, the adjusted level of exports for the 1986 marketing year is projected to be 151 million pounds. The computation of the adjustment is shown in the Appendix Table to this notice.

In accordance with Section 301(b)(14)(D) of the 1938 Act, the reserve stock level is the greater of 50 million pounds or 15 percent of the 1986 marketing quota for burley tobacco. The national marketing quota for the 1986 crop year was 493.5 million pounds (51 FR 28849). Accordingly, the reserve stock level for use in determining the 1987 marketing quota for burley tobacco will be 74 million pounds.

The decrease in the inventory of the cooperative marketing associations to reach the reserve stock level for the 1986 marketing year was 4.0 million pounds. The associations' inventory is projected to exceed the reserve stock level by 39 million pounds. However, the adjustment for the 1987 marketing year is projected to be a decrease of 35

million pounds, the maximum permitted under the Act when loan stocks exceed the reserve stock level by less than 71 million pounds.

The projection of the three marketing quota components for the 1987-88 marketing year, based upon the previous year's submissions by manufacturers of their intended purchases of 303.7 million pounds (manufacturers' intentions), exports of 152.2 million pounds (exports), and a reduction in association inventories of 35.0 million pounds (stocks) is 420.9 million pounds.

A national factor for apportioning the national poundage quotas to old farms will be determined by dividing the national poundage quota, less the reserve for new farms and old farm corrections and adjustments, by the sum of the preliminary 1987 allotments for old farms prior to any adjustments for overmarketings, undermarketings, or reductions which are required to be made because of marketing quota violations. The national factor for the 1986-87 marketing year was .94 (51 FR 28849).

Section 319(c) of the 1938 Act provides that a reserve may be established from the national poundage quota in an amount equivalent to not more than one percent of the national to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which no tobacco was produced or considered produced during the immediately preceding five years. A reserve of 157,000 pounds was established for the 1986-87 marketing year (51 FR 28849). The establishment of a reserve is also proposed for the 1987-88 marketing year.

Section 319(i) of the 1938 Act provides that if the Secretary determines it is desirable to encourage the additional marketing of any grade of tobacco to insure traditional market patterns, to meet the normal demands of export and domestic markets, the Secretary may authorize the marketing of such tobacco without the payment of penalty or deduction from subsequent quotas to the extent of 5 percent of the marketing quota for the farm on which the tobacco was produced. The marketing of any such tobacco in this manner has never been authorized under the poundage program and is not proposed for the 1987-88 marketing year.

The 1985 Act amended the 1938 Act to require the Secretary to announce the 1986 marketing quota within 21 days of enactment of the 1985 Act. This effectively precluded the opportunity to publish a notice in the *Federal Register*

to request public comments on this issue.

Due to the number of comments received by the Department it has been determined that additional consideration and public comments are warranted concerning the manner in which the quantity of tobacco exports is determined in 1987 and subsequent crop years. All comments are welcome and will be considered. Most desired, however, are comments which address the following issues:

1. The 1986 national marketing quota for burley tobacco was established using an export calculation based upon manufacturers' data to obtain the net producer requirements for domestic use and exports. Accordingly, the Department requests comments with respect to whether the same or another method should be used to calculate burley tobacco exports and whether the Department should require exporters to report the end use of domestic purchases.

2. The quantities of burley tobacco that are exported as reported by the Bureau of Census consist of "merchandise grown, produced, or manufactured (including imported merchandise which has been enhanced in value) in the United States." Comments are requested as to whether, for the purpose of reporting exports, tobacco blends of various kinds of tobacco, including domestic and foreign grown tobaccos should be identified and classified in this or another manner.

3. With respect to the 1986 crops of burley tobacco, the relationship of actual exports and adjusted exports for the past 3 marketing years was used to establish the estimate for the current marketing year (the immediately preceding year for which the national marketing quota is established). Comments are requested whether this procedure should be continued or another procedure should be adopted.

Comments received concerning these issues will be reviewed and used in establishing 1987 marketing quotas for burley tobacco as well as any new information that may be forthcoming concerning the levels of tobacco exports and imports in the 1986-87 marketing year.

Consideration of the comments will be aided by a presentation of the reasons the commenter believes either current or recommended export calculations are appropriate. Consideration of the comments will also be aided by the inclusion of any available data supporting or relevant to other calculations used in establishing these marketing quotas.



**Price Support**

Price support is required to be made available for each crop of a kind of tobacco for which quotas are in effect, or for which marketing quotas have not been disapproved by producers, at a level which is determined in accordance with a formula prescribed in section 106 of the 1949 Act. With respect to the 1987 crop of burley tobacco, the level of support is determined in accordance with sections 106(d) and (f) of the 1949 Act.

Section 106(f)(4) of the 1949 Act provides that the level of support for the 1987 crop of burley tobacco, if marketing quotas are in effect or are not disapproved by producers, shall be: (1) The level in cents per pound at which the 1986 crop of burley tobacco was supported, plus or minus, respectively (2) an adjustment of not less than 65 percent nor more than 100 percent of the

total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of:

(A) 66.7 percent of the amount by which:

(I) the average price received by producers for burley tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

(II) the average price received by producers for burley tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the

determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(B) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

For the purpose of calculating the market-price component of the support level, the 1985 Act amended the 1949 Act to require that the average market price be reduced 3.9 cents per pound for the 1985 marketing year and 30 cents per pound for prior marketing years.

The 1987-crop support level for burley tobacco will be based on prices received by producers during the 1981 through 1986 crops and an index of prices paid. These prices and indexes are:

**BURLEY TOBACCO PRICES AND INDEXES**

[Cents per pound]

Crop year	Auction price		Adjusted 5-year average	Cost index
	Actual	Adjusted		
1981.....	180.7	150.7		
1982.....	181.0	151.0		
1983.....	177.3	147.3		
1984.....	187.6	157.6		
1985.....	159.4	155.5	152.4	105.7
1986 <sup>1</sup> .....	157.0	157.0	154.5	101.3

<sup>1</sup> Projected.

Omitting the high and low years, the 1981-85 price average is 152.4 cents per pound and the 1982-86 average is 154.5 cents. The cost data, as provided by Economic Research Service (ERS), is on an amount-per-acre basis. Because the 1985 Act requires that the index be on

an amount-per-pound basis, per-acre data must be converted to a per-pound basis.

Currently there appears to be no clear trend in yields for burley tobacco. Accordingly, USDA will not make any adjustment for trend in calculating the

per pound cost in 1985 and 1986. Instead, the 1976-85, ten-year average yield of 2,170 pounds per acre will be used to convert the per-acre data to a cost-per-pound basis for 1985 and 1986. Details of the cost of production estimates are shown in the following table:

\*TABLE: BURLEY TOBACCO: PRODUCTION COSTS PER ACRE, BY COST ITEM, 1985 AND 1986

Cost item	Cost per acre	
	1985	1986
Variable:		
Labor <sup>1</sup> .....	\$1,167.42	\$1,125.01
Plant bed materials <sup>2</sup> .....	78.56	77.01
Fertilizer and lime.....	145.12	131.01
Chemicals <sup>3</sup> .....	82.08	80.76
Fuel and lubrication <sup>4</sup> .....	36.38	25.05
Curing fuel and heating fuel <sup>5</sup> .....	4.84	4.35
Repairs <sup>6</sup> .....	27.77	27.45
Marketing fee.....	179.10	155.15
Inspection and grading fee.....	12.36	10.80
Other <sup>7</sup> .....	15.30	15.30
Interest.....	26.34	24.13
Total variable.....	1,775.27	1,676.02

\*TABLE: BURLEY TOBACCO: PRODUCTION COSTS PER ACRE, BY COST ITEM, 1985 AND 1986—Continued

Cost item	Cost per acre	
	1985	1986
Machinery and barn ownership <sup>8</sup> .....	519.00	521.74
Total, variable and ownership.....	2,294.27	2,197.76
Yield (pounds).....	2,247	1,964
10-year average yield (pounds).....	2,170	2,170
Cost per pound (cents).....	105.7	101.3

\*Costs are based on a 1985 survey of burley tobacco growers' 1984 operation. These estimates replace previous estimates that used 1976 data as a base

<sup>1</sup> Includes operator, family, exchange, and hired labor value at prevailing wage rates.

<sup>2</sup> Includes seed, fertilizer, pesticides, and custom fumigation and canvas.

<sup>3</sup> Includes insecticides, herbicides, fungicides, and sucker control chemicals

<sup>4</sup> Includes tractor and machinery fuel and lubrication.

<sup>5</sup> Supplemental heat and heat for stripping room.

<sup>6</sup> Includes machinery, equipment, and barn repairs.

<sup>7</sup> Includes cover crop seed and other miscellaneous expenses.

<sup>8</sup> Includes a reserve for replacement, interest, taxes and insurance for tractors, machinery, barns, and stripping room.

Averaging the auction price change of 2.1 cents per pound (two-thirds weight) with the cost index change of -4.4 cents per pound (one-third weight), the maximum decrease in price support for the 1987 crop of burley tobacco would be 0.1 cents per pound. Accordingly, the projected level of price support for 1987 crop is approximately 148.7 cents per pound, 0.1 cents lower than the 1986 level of support of 148.8 cents per pound.

#### Proposed Determinations

In addition, the Secretary of Agriculture proposes to determine and

announce with respect to the 1987-88 marketing year for burley tobacco:

1. A reserve from the national poundage quota in an amount within a range of 10,000 pounds to 2 million pounds.

2. The additional marketing of any grades to tobacco without payment of penalty or deduction from subsequent quotas will not be authorized.

The national factor will be computed using the final components which will be made in the final national quota determination.

(Secs. 301, 313, 317, 375, 52 Stat. 38, as amended, 47, as amended, 79 Stat. 66, as amended, 52 Stat. 66, as amended, (7 U.S.C. 1301, 1313, 1314c, 1375); Secs. 106, 406; 74 Stat. 6, as amended, 63 Stat. 1055 (7 U.S.C. 1445, 1426))

Signed at Washington, DC, on January 6, 1987.

**Vern Neppi,**

Acting Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.

APPENDIX TABLE 1.—BURLEY TOBACCO (TYPE 31) MARKETING YEAR BEGINNING OCTOBER

[Million pounds, farm sales weight]

Item	1982	1983	1984	1985	1984-1985 avg.	1986
Producer sales.....	776.7	526.7	674.0	541.9		
Burley assoc. inven.: <sup>1</sup>						
Beginning (+).....	.7	226.1	377.2	548.9		
Ending (-).....	226.1	377.2	548.9	525.7		
Trade purchases <sup>2</sup> .....	551.3	375.6	502.3	565.1		
Manufacturers purchases (-).....	421.4	314.9	370.0	352.2		
Exporters purchases.....	129.9	60.7	132.3	212.9		
Dealers inventory: <sup>1</sup>						
Beginning (+).....	36	36	38	29.0		
Ending (-).....	36	38	29	77.3		
Exports (adjusted).....	129.9	58.7	<sup>3</sup> 141.3	164.6	152.9	150.8
Exports (reported) <sup>4</sup> .....	134.8	112.3	153.6	150.6	152.1	150.0
Amount reported exports exceed adjusted exports.....	4.9	53.6	12.3	-14.0	<sup>5</sup> -.8	-.8

<sup>1</sup> Tobacco stocks, Agricultural Marketing Service.

<sup>2</sup> Special reports to ASCS, April 1986 and November 1986.

<sup>3</sup> April 1986 estimate was 161.4 million pounds.

<sup>4</sup> Standard conversion factors applied to exports reported by Bureau of Census.

<sup>5</sup> Added to estimated reported exports to obtain adjusted exports.

[FR Doc. 87-432 Filed 1-6-87; 2:34 pm]

BILLING CODE 3410-05-M

**Cooperative State Research Service****National Agricultural Research and Extension Users Advisory Board;**

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Office of Grants and Program Systems, Cooperative State Research Service, announces the following meeting:

*Name:* National Agricultural Research and Extension Users Advisory Board

*Date:* February 4-6, 1987.

*TIME:* 8:00 a.m.-3:30 p.m., February 4-6, 1987.

*PLACE:* Holiday Inn Capitol 550 C Street, SW., Washington, DC

*Type of Meeting:* Open to the public.

Persons may participate in the meeting and site visits as time and space permit.

*Comments:* The public may file written comments before or after the meeting with the contact person below.

*Purpose:* The Board will be preparing a report assessing the President's proposed FY 1988 budget for agricultural research and extension agencies.

*Contact Person for Agenda and More Information:* Marshall Tarkington, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 316-A, Administration Building, U.S. Department of Agriculture, Washington, DC 20250; telephone (202) 447-3684.

Done in Washington, DC, this 30th day of December 1986.

C.I. Harris,

Associate Administrator, Cooperative State Research Service.

[FR Doc. 87-341 Filed 1-7-87; 8:45 am]

BILLING CODE 3410-MT-M

**Soil Conservation Service****Lake Mattoon Watershed, IL; Environmental Impact Statement**

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of finding of no significant impact.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Lake Mattoon Watershed, Coles, Cumberland and Shelby Counties, Illinois.

**FOR FURTHER INFORMATION CONTACT:** John J. Eckes, State Conservationist, Soil Conservation Service, 301 North Randolph Street, Champaign, Illinois

61820, Telephone (217) 398-5267.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, John J. Eckes, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns are erosion, sedimentation, water quality, water quantity, and resource base degradation. The planned works of improvement include conservation tillage systems, contour farming, terraces, grassed waterways, grade stabilization structures, land use change, and water and sediment control basins.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during this environmental assessment are on file and may be reviewed by contacting John J. Eckes.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: December 30, 1986.

Billy W. Milliken,

Deputy State Conservationist.

[FR Doc. 87-314 Filed 1-7-87; 8:45 am]

BILLING CODE 3410-16-M

**DEPARTMENT OF COMMERCE****International Trade Administration****Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review**

**AGENCY:** International Trade Administration/Import Administration, Commerce.

**ACTION:** Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

**Background**

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.53a or § 355.10 of the Commerce Regulations, that the Department of Commerce ("the Department"), conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

**Opportunity to Request a Review**

Not later than January 31, 1987, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in January, for the following periods:

	Period
Antidumping Duty Proceeding:	
Cell Site Transceivers from Japan	01/01/86-12/31/86
Expanded Metal from Japan	01/01/86-12/31/86
Calcium Pantothenate from Japan	01/01/86-12/31/86
Anhydrous Sodium Metasilicate from France	01/01/86-12/31/86
Low Fuming Brazing Copper Wire & Rod from South Africa	01/01/86-12/31/86
Potassium Permanganate from Spain	01/01/86-12/31/86
Potassium Permanganate from the People's Republic of China	01/01/86-12/31/86
Countervailing Duty Proceeding:	
Fabricated Automotive Glass from Mexico	01/01/86-12/31/86
Nonrubber Footwear from Argentina	01/01/86-12/31/86
Stainless Steel Wire Rod from Spain	01/01/86-12/31/86
Carbon Steel Wire Rod from Trinidad and Tobago	01/01/86-12/31/86
Semi-Finished Forged Undercarriage Components from Italy	01/01/86-12/31/86
Suspensions:	
Truck Trailer Axle-and-Brake Assemblies from Hungary	01/01/86-12/31/86
Certain Red Raspberries from Canada	01/09/86-12/31/86
Roses and Other Cut Flowers from Colombia	01/01/86-12/31/86

A request must conform to the Department's interim final rule published in the **Federal Register** (50 FR 32556) on August 13, 1985. Seven copies of the request should be submitted to the Deputy Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by January 31, 1987.

If the Department does not receive by January 31, 1987 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: December 30, 1986.

**Gilbert B. Kaplan,**

*Deputy Assistant Secretary, Import Administration.*

[FR Doc. 87-353 Filed 1-7-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-604]

#### Countervailing Duty Order; Brass Sheet and Strip from Brazil

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** In its investigation, the United States Department of Commerce determined that brass sheet and strip from Brazil is being subsidized within the meaning of the countervailing duty law. In a separate investigation, the United States International Trade Commission (ITC) determined that imports of brass sheet and strip from Brazil are materially injuring a United States industry. Therefore, based on these findings, all unliquidated entries, or withdrawals from warehouse, for consumption, of brass sheet and strip from Brazil made on or after November 10, 1986, the date on which the Department published its "Final Determination" notice in the *Federal Register*, will be liable for the possible assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this countervailing duty order in the *Federal Register*.

**EFFECTIVE DATE:** January 8, 1987.

**FOR FURTHER INFORMATION CONTACT:** Thomas Bombelles, Office of Investigations, or Richard Moreland, Office of Compliance, International Trade Administration, United States

Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3174 or 377-2786.

**SUPPLEMENTARY INFORMATION:** The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently provided for under item numbers 612.3960, 612.3982, and 612.3986 of the *Tariff Schedules of the United States Annotated* (TSUSA). The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C2000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

In accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(a)), on November 3, 1986, the Department issued its final determination that brass sheet and strip from Brazil is being subsidized (51 FR 40837, November 10, 1986).

On December 22, 1986, in accordance with section 705(d) of the Act (19 U.S.C. 1671d(d)), the ITC notified the Department that such importations materially injure a United States industry. Therefore, in accordance with section 706 of the Act (19 U.S.C. 1671e), the Department directs United States Customs officers to assess, upon further advice by the administering authority, countervailing duties in the amount of the estimated net subsidy for all entries of brass sheet and strip from Brazil. These countervailing duties will be assessed on all unliquidated entries of brass sheet and strip which are entered, or withdrawn from warehouse, for consumption, on or after November 10, 1986, the date on which the Department published its "Final Determination" notice in the *Federal Register*.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 3.47 percent *ad valorem*.

This determination constitutes a countervailing duty order with respect to brass sheet and strip from Brazil pursuant to section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36). We have deleted from the Commerce Regulations, Annex III of 19 CFR Part 355, which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import

Administration, for copies of the updated list of orders currently in effect.

#### Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Mr. Richard Moreland at, (202) 377-2786.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

**Gilbert B. Kaplan,**

*Deputy Assistant Secretary for Import Administration.*

December 29, 1986.

[FR Doc. 87-354 Filed 1-7-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-779-601; A-779-602]

#### Postponement of Final Countervailing and Antidumping Duty Determinations; Certain Fresh Cut Flowers From Kenya

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** This notice informs the public that we have received a request from the respondent in these investigations that the final antidumping duty determination be postponed for 135 days from publication of our antidumping duty preliminary determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)); and that we have postponed our final determinations as to whether producers or exporters of certain fresh cut flowers from Kenya receive subsidies within the meaning of the countervailing duty law, and whether sales have occurred at less than fair value, until not later than March 18, 1987. In addition, we are rescheduling the public hearings in these investigations.

**EFFECTIVE DATE:** January 8, 1987.

**FOR FURTHER INFORMATION CONTACT:** James Riggs (Antidumping) or Carole Showers (Countervailing Duty), Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4929 (Riggs) or 377-3217 (Showers).

**Case History**

On May 21, 1986, we received antidumping and countervailing duty petitions filed by the Floral Trade Council of Davis, California on certain fresh cut flower (flowers) from Kenya. In compliance with the filing requirements of § 353.36 of our regulation (19 CFR 353.36), the antidumping petition alleged that imports of flowers from Kenya are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act) and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation, and on June 10, 1986, we initiated such an investigation (51 FR 21947, June 17, 1986). The preliminary affirmative determination in this antidumping investigation was made on October 28, 1986 (51 FR 39895, November 3, 1986).

In compliance with the filing requirements of section 355.26 of our regulations (19 CFR 355.26), the countervailing duty petition alleged that producers or exporters in Kenya of flowers directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated such an investigation (51 FR 21953, June 17, 1986). On July 7, 1986, the ITC preliminarily determined that there is a reasonable indication that imports of flowers cause material injury to a U.S. industry (51 FR 25751, July 16, 1986). On October 20, 1986, we issued a preliminary negative determination in the countervailing duty investigation (51 FR 37925, October 27, 1986).

On November 11, 1986, petitioner filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the antidumping duty investigation.

Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend

the date of the final determination [in the countervailing duty investigation] . . . to the date of the final determination" in the antidumping investigation (19 U.S.C. 1671d(a)(1)). Pursuant to this provision, we granted an extension of the deadline date for the final determination in the countervailing duty investigation of flowers from Kenya to January 12, 1986, the deadline for the final determination in the antidumping duty investigation.

On November 24, 1986 counsel for respondent requested that the Department extend the period for the final determination in the antidumping duty investigations to 135 days from the publication date of our preliminary antidumping duty determination in accordance with section 735(a)(2)(A) of the Act. In addition, because the deadline for the countervailing duty determination has been tied to the deadline for the antidumping determination, respondent requested that this deadline also be extended.

Section 735(a)(2)(A) of the Act provides that the Department may postpone its final determination concerning sales at less than fair value until not later than 135 days after the date on which it published a notice of its preliminary determination, if exporters who account for a significant portion of the merchandise which is the subject of the investigation request a postponement after an affirmative preliminary determination.

The respondent is qualified to make such a request since it accounts for all exports of the merchandise under investigation. If a qualified exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, the Department will issue final determinations in these cases not later than March 18, 1987.

The public hearings in these cases are being postponed until January 30, 1987 (10:00 a.m. for the countervailing duty investigation, and 2:00 p.m. for the antidumping investigation), and will be held at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Accordingly, prehearing briefs must be submitted to the Deputy Assistant Secretary by January 20, 1987. Oral presentations in these hearings will be limited to issues raised in the briefs. Posthearing briefs are due no later than 10 days after transcripts of these hearings are made available. All written views should be filed in accordance with 19 CFR 353.46, for the antidumping duty investigation, and 19 CFR 355.34 for

the countervailing duty investigation, no later than 30 days before the final determinations are due, at the above address in at least 10 copies.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 2, 1987.

[FR Doc. 87-375 Filed 1-7-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-609]

**Preliminary Affirmative Countervailing Duty Determination: Certain Forged Steel Crankshafts from Brazil**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts. The estimated net subsidy is 4.96 percent *ad valorem*. We have notified the United States International Trade Commission (ITC) of our determination.

We are directing the United States Customs Service to suspend liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. We have also directed the United States Customs Service to require a cash deposit or bond for each such entry in an amount equal to the estimated net subsidy as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination not later than March 18, 1987.

**EFFECTIVE DATE:** January 8, 1987.

**FOR FURTHER INFORMATION CONTACT:** Thomas Bombelles or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3174 or 377-2438.

**SUPPLEMENTARY INFORMATION:**

**Preliminary Determination**

Based upon our investigation, we preliminarily determine that certain benefits which constitute subsidies

within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts. For purposes of this investigation, the following programs are found to confer subsidies:

- Preferential Working Capital Financing for Exports
- Income Tax Exemption for Export Earnings

We preliminarily determine the estimated net subsidy to be 4.96 percent *ad valorem*.

#### Case History

On October 9, 1986, we received a petition in proper form from the Wyman-Gordon Company, a domestic manufacturer of certain forged steel crankshafts. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts receive, directly or indirectly, subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, United States industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on October 29, 1986, we initiated such an investigation (51 FR 40240, November 5, 1986). We stated that we expected to issue a preliminary determination not later than January 2, 1987.

Since Brazil is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a United States industry. Therefore, we notified the ITC of our initiation. On November 24, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of certain forged steel crankshafts (51 FR 44537, December 10, 1986).

On November 10, 1986, we presented a questionnaire to the Government of Brazil in Washington, DC, concerning the petitioner's allegations, and we requested a response by December 10, 1986. On December 10, 1986, we received a response to our questionnaire.

There are two known manufacturers and producers in Brazil of certain steel forged crankshafts that exported to the United States during the review period. These are Krupp Metalurgica Campo Limo Ltda. (Krupp), and Sifco S.A. In

addition, Brasifco S.A. (Brasifco), is a trading company which exported the subject merchandise from Brazil to the United States during the review period. According to the Government of Brazil, Krupp, Sifco and Brasifco account for substantially all exports of certain forged steel crankshafts to the United States.

#### Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight of between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127, and 660.7174 of the *Tariff Schedules of the United States Annotated* (TSUSA). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

#### Analysis of Programs

Throughout this notice, we refer to certain general principles which are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" which was published in the April 26, 1984, issue of the *Federal Register* (49 FR 18006).

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program or receipt of benefits under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of our preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidization ("the review period") is calendar year 1985. In its response, the Government of Brazil provided data for the applicable period, including financial statements for Krupp, Sifco and Brasifco.

Based upon our analysis of the petition, and the responses to our questionnaire, we preliminarily determine the following:

#### I. Programs Preliminarily Determined to Constitute Subsidies

We preliminarily determine that countervailable benefits are being

provided to manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts under the following programs:

A. *Preferential Working-Capital Financing for Exports*. The *Carteria do Comercio Exterior* (Foreign Trade Department of CACEX) of the Banco do Brasil administers a program of short-term working capital financing for the purchase of inputs. During the review period, these loans were provided under Resolutions 882, 883, 950, and 1009.

Eligibility for this type of financing is determined on the basis of past export performance or an acceptable export plan. The amount of available financing is calculated by making a series of adjustments to the dollar value of exports. During the review period, the maximum level of eligibility for the subject merchandise for such financing was 20 percent of the adjusted value of exports.

Following approval by CACEX of their applications, participants in the program receive certificates representing the total dollar amount for which they are eligible. The certificates are presented to banks in return for cruzeiros at the exchange rate in effect on the date of presentation. Loans provided through this program are made for a term of up to one year.

The interest rate on Resolution 882 and 883 loans was one hundred percent of monetary correction, plus three percent. We compared this interest rate to our short-term benchmark, which is the discount rate on accounts receivable as published in *Analise/Business Trends*, a Brazilian financial publication. The interest rate charged on these loans is below our benchmark.

On August 21, 1984, Resolutions 882 and 883 were amended by Resolution 950. Resolution 950 loans are made by commercial banks, with interest paid at the time of principal repayment. Under Resolution 950, the Banco do Brasil paid the lending institution an equalization fee of up to 10 percentage points in interest (after monetary correction). Resolution 950 was amended in May 1985 by Resolution 1009 and the equalization fee was increased to 15 percentage points in interest charged (after monetary correction). Therefore, if the interest rate charged to the borrower is less than full monetary correction plus 15 percent the Banco do Brasil pays the lending bank an equalization fee, of up to 15 percentage points. According to the response, the lending bank passes the equalization fee on to the borrower in the form of a reduction of the interest due. Thus, the equalization fee reduces the interest rate on these working

capital loans below the commercial rate of interest. These loans are also exempt from the Imposto sobre Operacoes Financieras (Tax on Financial Operations or IOF), a tax charged on all domestic financial transactions in Brazil.

Since receipt of working-capital financing under Resolutions 882, 883, 950 and 1009 is contingent on export performance, and provides funds to participants at preferential rates, we preliminarily determine that this program confers an export subsidy. In order to calculate the benefit, we multiplied the value of all those loans repaid in 1985 by the sum of the difference between the applicable interest rates and our benchmark, plus the IOF. We then allocated the benefit over the total value of the 1985 exports, resulting in an estimated net subsidy of 3.59 percent *ad valorem*.

**B. Income Tax Exemption for Export Earnings.** Under Decree-Laws 1158 and 1721, Brazilian exporters are eligible for an exemption from income tax on the portion of profits attributable to export revenue. Because this exemption is tied to exports and is not available for domestic sales, we preliminarily determine that this exemption confers an export subsidy.

The two producers and one trading company under investigation took an exemption from income tax payable in 1985 on a portion of income earned in 1984. We multiplied that portion of income exempt from taxation by the companies' effective tax rates, and allocated the benefit over the total value of their 1985 exports to calculate an estimated net subsidy of 1.37 percent *ad valorem*.

## II. Programs Preliminarily Determined Not to be Used

We preliminarily determine that manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts did not use the following programs, which were listed in our notice of "Initiation of a Countervailing Duty Investigation: Certain Forged Steel Crankshafts from Brazil."

**A. Resolution 330 of the Banco Central do Brasil.** Resolution 330 provides financing for up to 80 percent of the value or the merchandise placed in a specified bonded warehouse and destined for export. Exporters of certain forged steel crankshafts would be eligible for financing under this program. However, the Government of Brazil stated in its response that none of the respondents borrowed, or had outstanding, loans under this program during the review period; therefore, we

preliminarily determine that this program was not used.

**B. Exemption of IPI Tax and Customs Duties on Imported Capital Equipment (CDI).** Under Decree-Law 1428, the Conselho do Desenvolvimento Industrial (Industrial Development Council or CDI) provides for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the Imposto sobre Produtos Industrializados (Tax on Industrial Products or IPI) on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed to be feasible and the recipient must demonstrate that there is a need for added capacity in Brazil. The Government of Brazil stated in its response that none of the forged steel crankshaft producers subject to the investigation received incentives under this program during the review period.

**C. The BEFIEX Program.** The Comissao para a Consessao de Beneficios Fiscais a Programas Especiais de Exportacao (Commission for the Granting of Fiscal Benefits to Special Export Programs or BEFIEX) grants at least four categories of benefits to Brazilian exporters:

- First, under Decree-Law 77.065, BEFIEX may reduce by 70 to 90 percent import duties on the importation of machinery, equipment, apparatus, instruments, accessories and tools necessary for special export programs approved by the Ministry of Industry and Trade, and may reduce by 50 percent import duties and the IPI on imports of components, raw materials and intermediary products;

- Second, under Article 13 of Decree No. 72.1219, BEFIEX may extend the carry-forward period for tax losses from two to six years;

- Third, under Article 14 of the same decree, BEFIEX may allow special amortization of pre-operational expenses related to approved products; and

- Fourth, the Government of Brazil may continue to provide the IPI export credit premium to approved exporters pursuant to long-term BEFIEX contracts.

In the response, the Government of Brazil stated that the forged steel crankshaft producers under investigation did not participate in this program during the review period.

**D. The CIEIX Program.** Decree-Law 1428 authorized the Comissao para Incentivos a Exportacao (Commission for Export Incentives or CIEIX) to reduce import taxes and the IPI by up to ten percent on certain equipment for use in

export production. In its response, the Government of Brazil stated that none of the forged steel crankshaft producers under investigation participated in this program during the review period.

**E. Accelerated Depreciation for Brazilian-Made Capital Equipment.** Pursuant to Decree-Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under Brazilian tax laws. In the response, the Government of Brazil stated that none of the forged steel crankshaft producers under investigation used this program during the review period.

**F. Incentives for Trading Companies.** Under Resolution 643 of the Banco Central do Brasil, trading companies can obtain export financing similar to that obtained by manufacturers under Resolution 950. In the response, the Government of Brazil stated that the trading company respondent did not borrow, or have outstanding, any loans under this program during the review period.

**G. The PROEX Program.** Short-term credits for exports are available under the Programa de Financiamento a Producao para a Exportacao (Export Production Financing Program or PROEX), a loan program operated by Banco Nacional do Desenvolvimento Economico e Social (National Bank of Economic and Social Development or BNDES). In the response, the Government of Brazil stated that none of the forged steel crankshaft producers or exporters under investigation received loans or had loans outstanding under this program during the review period.

**H. Resolutions 68 and 509 (FINEX) Financing.** Resolutions 68 and 509 of the Conselho Nacional do Comercio Exterior (National Foreign Trade Council or CONCEX) provide that CACEX may draw upon the resources of the Fundo de Financiamento a Exportacao (Export Financing Fund or FINEX) to extend dollar-denominated loans to both exporters and United States buyers of Brazilian goods. Financing is granted on a transaction-by-transaction basis. In its response, the Government of Brazil stated that neither the companies under investigation nor United States buyers of the subject merchandise received Resolution 68 or 509 financing or had outstanding loans during the review period.

**I. Loans Through the Apoio a Desenvolvimento Tecnologica a Empresa Nacional (ADTEN).** Petitioner alleges that the Government of Brazil maintains, through the Financiadora de

Estudos Projectos (Financing of Research Projects or FINEP), a loan program, ADTEN (Support of the Technological Development of National Enterprises), that provides long-term loans on terms inconsistent with commercial considerations to encourage the growth of industries and development of technology. In the response, the Government of Brazil stated that none of the companies under investigation received, or had outstanding, loans through this program during the review period.

J. *Export Financing Under the CIC-CREGE 14-11 Circular.* Under its CIC-CREGE 14-11 circular ("14-11"), the Banco do Brasil provides 180- and 360-day cruzeiro loans for export financing, on the condition that companies applying for these loans negotiate fixed-level exchange contracts with the bank. Companies obtaining a 360-day loan must negotiate exchange contracts with the bank in an amount equal to twice the value of the loan. Companies obtaining a 180-day loan must negotiate an exchange contract equal to the amount of the loan. According to the response of the Government of Brazil, none of the companies under investigation had loans under this program during the review period.

K. *IPI Rebates for Capital Investment.* Decree-Law 1547, enacted in April 1977, provides funding for approved expansion projects in the Brazilian steel industry through a rebate of the IPI, a value-added tax imposed on domestic sales. According to the response of the Government of Brazil, the companies under investigation are not eligible to participate in this program.

### III. Program Preliminary Determined to Require Additional Information

*Articles 13 and 14 of Decree-Law 2303.* According to information submitted on the record of this investigation after we issued our questionnaire, on November 21, 1986, the Government of Brazil passed Decree-Law 2303, authorizing certain changes in the tax code. Article 13 of this Decree-Law changes the method of calculating export profits for the purpose of granting certain fiscal incentives. Article 14 exempts, wholly or partially, firms which export manufactured products from the excess profits tax if exports account for more than a designated amount of total revenue. We intend to obtain as much information as possible regarding the effects of these changes in the tax law at verification.

### Verification

In accordance with section 776(a) of the Act, we will verify the data used in

making our final determination. We will not accept any statement in a response that cannot be verified for our final determination.

### Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of certain forged steel crankshafts from Brazil entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond for each such entry of this merchandise of 4.96 percent *ad valorem*. This suspension of liquidation will remain in effect until further notice.

### ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry 120 days after the Department makes its preliminary affirmative determination or 45 days after its final affirmative determination, whichever is latest.

In accordance with § 355.35 of the Commerce Regulations (19 CFR 355.35) we will, if requested, hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination. The hearing will be held at 10:00 a.m. on February 13, 1987, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within 10 days of the publication of this notice in the **Federal Register**.

Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, at least 10 copies of the proprietary version and seven copies of the nonproprietary version of the

prehearing briefs must be submitted to the Deputy Assistant Secretary by February 6, 1987. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Gilbert B. Kaplan,

*Deputy Assistant Secretary for Import Administration.*

January 2, 1987.

[FR Doc. 87-376 Filed 1-7-87; 8:45 am]

BILLING CODE 3510-DS-M

### National Technical Information Service

#### Polysciences, Inc.; Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Polysciences, Inc., having a place of business in Warrington, PA 18976, an exclusive right in the United States to practice the invention embodied in U.S. Patent Application S.N. 6-876,701, "Tetrazolium Salt Stain." The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted within the above specified 60-day period and should be addressed to Robert P. Auber, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

*Patent Licensing Specialist, Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.*

[FR Doc. 87-380 Filed 1-7-87; 8:45 am]

BILLING CODE 3510-DS-M



**DEPARTMENT OF DEFENSE****Office of the Secretary****Strategic Defense Initiative Advisory Committee: Meeting**

**ACTION:** Notice of advisory committee meetings.

**SUMMARY:** The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session in Washington, DC, on January 6-7-8, 1987.

The mission of the SDI Advisory Committee is to advise the Secretary of Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on January 6-7-8, 1987 the committee will discuss status of SDI research and management issues.

In accordance with section 10(d) for the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C., App II, (1982)), it has been determined that this SDI Advisory Committee meeting, concerns matters listed in 5 U.S.C., 553b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

*OSD Federal Register Liaison Officer,  
Department of Defense.*

January 6, 1987.

[FR Doc. 87-417 Filed 1-6-87; 11:43 am]

BILLING CODE 3810-01-M

**Graduate Medical Education Advisory Committee, Meeting**

**AGENCY:** Department of Defense Graduate Medical Education Advisory Committee.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of Pub. L. 92-463, notice is hereby given that an open meeting of the Department of Defense Graduate Medical Education Advisory Committee has been scheduled as follows:

**DATE:** January 16, 1987, 8:00 a.m. to 5:00 p.m.

**ADDRESS:** Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Colonel Michael Herndon, Executive Secretary, DoD Graduate

Medical Education Advisory Committee, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E346, the Pentagon, Washington, DC, 20301 (202) 694-5355.

**SUPPLEMENTARY INFORMATION:** This will be the eighth meeting of the Committee. Presentation of the services selection results for AY 87 will be made.

January 5, 1987.

Linda M. Lawson,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 87-374 Filed 1-5-87; 3:50 pm]

BILLING CODE 3810-01-M

**Department of the Air Force****Conversion to Contract**

Action: Notice.

The Air Force recently determined that the warehousing, order writing, pulling, shelf stocking, and custodial functions at the Los Angeles Air Force Station, CA Commissary will be examined for possible conversion to contract.

For further information contact Mr. Jack Flenner, HQ AFCOMS/XPMO, Kelly Air Force Base, TX, telephone (512) 925-6692.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 87-381 Filed 1-7-87; 8:45 am]

BILLING CODE 3910-01-M

**DEPARTMENT OF EDUCATION****Cancellation of Meeting**

**AGENCY:** Intergovernmental Advisory Council on Education.

**ACTION:** Cancellation of Meeting.

**SUMMARY:** Notice is hereby given of the cancellation of the Intergovernmental Advisory Council on Education meeting scheduled for January 12, 1987, in Washington, DC, as published in the *Federal Register* on Wednesday, December 24, 1986, Volume 51, page 46704.

Dated: January 6, 1987.

Peter R. Greer,

*Deputy Under Secretary.*

[FR Doc. 87-498 Filed 1-7-87; 8:45 am]

BILLING CODE 4000-01-M

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. TA87-2-51-002]

**Great Lakes Gas Transmission Co.; Corrected Filing Replacing Earlier Filing**

January 2, 1987.

Take notice that on December 9, 1986, Great Lakes Gas Transmission Company (Great Lakes) tendered for filing the following corrected tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1: Fourth Revised Sheet Nos. 57(i) and 57(ii) and Fifth Revised Sheet Nos. 57(i) and 57(ii). Great Lakes requests that the Commission replace the original November 28, 1986 filing with these corrected sheets. The proposed effective date remain the same.

Except for the gas purchase costs reflected in the corrected tariff sheets with respect to Inter-City Gas Limited, all of the price changes described in the letter of transmittal of November 28, 1986 are also reflected in this filing. With respect to Inter-City, the gas cost reflected in the previous tariff sheets has also been reduced to correct an error in the application of the indexing mechanism of the gas pricing arrangements. A downward adjustment of 1.35¢ per Mcf has been made in this respect.

Copies of this filing have been served on all of Great Lakes' customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any intervenor in Docket Nos. TA87-2-51-000, 001 will be considered to be an intervenor in Docket No. TA87-2-51-002. Such persons are not barred from filing further comments or protests to this filing in Docket No. TA87-2-51-002. However, any other person desiring to be heard or to protest the filing in Docket No. TA87-2-51-002 should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 7, 1987. 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. 87-366 Filed 1-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS71-635, et al.]

**Lannie M. Moses and Betsy M. Mullins  
(Four M Properties, Ltd.), et al.;  
Applications for Small Producer  
Certificates<sup>1</sup>**

January 5, 1987.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all

as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make a protest with reference to said applications should on or before January 20, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure therein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

**Kenneth F. Plumb,**  
*Secretary.*

public convenience and necessity to render service previously authorized by the Commission in certificates of public convenience and necessity issued to Phillips Petroleum Company and for substitution of Phillips 66 Natural Gas Company in other related proceedings.

Take notice that on December 22, 1986, Phillips 66 Natural Gas Company (Applicant), of 258 Adams Building, Bartlesville, Oklahoma 74004, filed an application pursuant to section 7 of the Natural Gas Act and §§ 157.23(b) and 157.24 of the Federal Energy Regulatory Commission's (Commission) Regulations for a Certificate of Public Convenience and Necessity to render service previously authorized to Phillips Petroleum Company, requesting that Applicant be substituted for Phillips Petroleum Company in any related proceedings presently pending before the Commission and requesting redesignation of Phillips Petroleum Company's Rate Schedules, as shown in Exhibit A and in the application on file with the Commission and open to public inspection.

By a Contribution Agreement dated and effective January 1, 1986, Phillips Petroleum Company assigned certain properties to Applicant. Generally, under the terms of the Contribution Agreement, Applicant was assigned and succeeded to the former Gas and Gas Liquids business of Phillips Petroleum Company.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 20, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protest 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 in any proceeding herein 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 to be represented at the hearing.

**Kenneth F. Plumb,**  
*Secretary.*

Docket No.	Date filed	Applicant
CS71-635.....	<sup>1</sup> 10-6-86	Lannie M. Moses and Betsy M. Mullins (Four M Properties, Ltd.), 4545 Post Oak Place Drive, Suite 180, Houston, Texas 77027.
CS83-5-000.....	<sup>2</sup> 11-6-86	Wright Brothers Energy, Inc. (Doran Energy Corporation), 13333 Blanco Road, Suite 300 San Antonio, Texas 78216.
CS87-27-000.....	27-1-86	Berenergy Corporation, P.O. Box 5850, Denver, Colorado 90217.
CS87-28-000.....	12-5-86	LIGNUM OIL COMPANY, 1331 Lamar, Suite 676, Houston, Texas 77010.
CS87-29-000.....	12-5-86	RESOUCE RESERVE CO., 1212 Main Street, Suite 364, Houston, Texas 77002.
CS87-30-000.....	12-5-86	WYOGRAM OIL CO., 1212 Main Street, Suite 364, Houston Texas 77002.
CS87-31-000.....	<sup>3</sup> 12-8-86	Hutton Gas Company and Hutton Gas Operating Company, 9 East 4th Street, Suite 1000, Tulsa, Oklahoma 74103.
CS87-32-000.....	12-10-86	U.S. OIL AND GAS, INC., P.O. Box 9158 Houma, Louisiana 70361.

<sup>1</sup> Letter dated October 3, 1986, requesting redesignation of small producer certificate to reflect that Four M. Properties, Ltd., a limited partnership, has been dissolved and its assets distributed to its limited partners.

<sup>2</sup> Letter dated October 30, 1986, requesting redesignation of small producer certificate to reflect that Doran Energy Corporation has changed its name to Wright Brothers Energy, Inc.

<sup>3</sup> Additional material received December 24, 1986.

[FR Doc. 87-365 Filed 1-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. C171-187-000 and C177-253-001]

**Phillips 66 Natural Gas Co., Notice of  
Application**

January 5, 1987.

Notice of application of Philips 66  
Natural Gas Company for certificate of

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.

## EXHIBIT "A"

Phillips Petroleum Company rate schedule No.	Party	Phillips certificate docket no.
<sup>1</sup> 481	ANR Pipeline Company Natural Gas Pipeline Company of America.	CI71-187
<sup>1</sup> 601	El Paso Natural Gas Company	CI77-253

<sup>1</sup> Exchange Agreement.

[FR Doc. 87-367 Filed 1-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C187-189-000]

**Primos Production; Application**

January 5, 1987.

Take notice that on December 22, 1986, Primos Production ("Primos") or ("Applicant") Post Office Drawer 2066, Monroe, Louisiana 71207, filed an application pursuant to section 7(b) of the Natural Gas Act for authorization to permanently abandon sales of gas produced from 41 wells produced by Primos in the Monroe Field in Morehouse, Ouachita and Union Parishes, Louisiana. Primos requests that the Commission consider the application on an expedited basis in accordance with section 2.77 of its rules and Order No. 436 issued in Docket No. RM85-1-000.

Primos, a small producer certificate holder in Docket No. CS76-1142, seeks permanent abandonment of sales to United Gas Pipe Line Co. ("United") pursuant to a contract executed July 19, 1985. Primos states that the wells (see Appendix) have been completely shut in, without payment for supplies not taken. The wells, which qualify as NGPA section 108 stripper wells, have a combined deliverability of approximately 184 MCF per day. Thirty-seven of the wells were shut-in on July 14, 1986, and the remaining four wells were shut-in about December 1, 1986. On October 1, 1986, Primos and United agreed to terminate the gas purchase contract and to permanently release the gas for sales to alternative purchasers.

Any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the Federal Register file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

**Kenneth F. Plumb,**  
Secretary.

## Appendix

Well Name & No.	Tensas Delta #33
Tensas Delta #1	Tensas Delta #34
Tensas Delta #1-A	Tensas Delta #36
Tensas Delta #3	Tensas Delta #37
Tensas Delta #8	Tensas Delta #38
Tensas Delta #9	Tensas Delta #39
Tensas Delta #10	Tensas Delta #40
Tensas Delta #12	Tensas Delta #42
Tensas Delta #13	Tensas Delta #43
Tensas Delta #19	Tensas Delta #44
Tensas Delta #21	Tensas Delta #45
Tensas Delta #23	Tensas Delta #46
Tensas Delta #24	Tensas Delta #47
Tensas Delta #25	Tensas Delta #49
Tensas Delta #26	Tensas Delta #50
Tensas Delta #27	Tensas Delta #51
Tensas Delta #28	Tensas Delta #52
Tensas Delta #29	Tensas Delta #53
Tensas Delta #30	Tensas Delta #54
Tensas Delta #31	Tensas Delta #55
Tensas Delta #32	Tensas Delta #58

[FR Doc. 87-368 Filed 1-7-87; 8:45 am]

BILLING CODE 6717-01-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

[FEMA-783-DR]

**Amendment to Notice of a Major-Disaster Declaration; Northern Mariana Islands**

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the Commonwealth of the Northern Mariana Islands (FEMA-783-DR), dated December 10, 1986, and related determinations.

**DATED:** December 31, 1986.

**FOR FURTHER INFORMATION CONTACT:**  
Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: The notice of a major disaster for the Commonwealth of the Northern Mariana Islands, dated December 10, 1986, is hereby amended to include the following areas among those determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 10, 1986: Island of Rota for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance) (Billing Code 6718-02).

**Joseph A. Moreland,**

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 87-339 Filed 1-7-87; 8:45 am]

BILLING CODE 6718-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. 86P-0485]

**Canned Pacific Salmon Deviating From Identity Standard; Temporary Permit for Market Testing**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Peter Pan Seafoods, Inc., to market test canned skinless and boneless chunk salmon packed in water. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

**DATES:** This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than April 8, 1987.

**FOR FURTHER INFORMATION CONTACT:**  
Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-210), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0110.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is

giving notice that a temporary permit has been issued to Peter Pan Seafoods, Inc., Seattle, WA 98121.

The permit covers limited interstate marketing tests of canned skinless and boneless chunk salmon packed in water. The test product deviates from the standard of identity for canned Pacific salmon (21 CFR 161.170) in three ways: (1) The form of pack is chunk, i.e., not less than 50 percent of the drained weight of the salmon is retained on a 1/2-inch mesh screen; (2) the skin and backbone, i.e., vertebrae and associated bones (neural spines and ventral ribs), will be removed; and (3) water, in an amount not to exceed 10 percent of the water capacity of the can, will be used as a packing medium and to aid in dispersion of salt. The test product meets all requirements of § 161.170 with the exception of these deviations. The permit provides for temporary marketing of 25,000 cases of test product containing twenty-four 6 1/2-ounce cans each. The test product will be distributed throughout the continental United States.

The test product is to be manufactured at the Petersburg Fisheries plant located in Petersburg, AK 99833.

Each of the ingredients used in the food is stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than April 8, 1987.

Dated: December 28, 1986.

**Sanford A. Miller,**

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 87-327 Filed 1-7-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86P-0483]

#### **Canned Wax Beans Deviating From Identity Standard; Temporary Permit for Market Testing**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Seymour Canning Co. to market test experimental packs of canned wax beans containing added glucono delta-lactone. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

**DATES:** The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than April 8, 1987.

**FOR FURTHER INFORMATION CONTACT:** Catharine R. Calvert, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0121.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Seymour Canning Co., 530 East Wisconsin St., P.O. Box 5, Seymour, WI 54165.

The permit covers limited interstate marketing tests of experimental packs of canned wax beans. The test product deviates from the standard of identity for canned wax beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added glucono delta-lactone in an amount reasonably necessary to maintain an equilibrium pH below 4.6 (up to a maximum of 0.62 percent of the net weight of the finished product). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 400 cases containing 24 No. 303 by 406 cans each of the test product. The experimental packs of the test product will be distributed in the State of Wisconsin. The test product is to be manufactured at the Seymour Canning Co. plant located in Seymour, WI 54165.

The principal display panel of the label states the product name as "Cut Wax Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than April 8, 1987.

Dated: December 24, 1986.

**Sanford A. Miller,**

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 87-325 Filed 1-7-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86D-0488]

#### **American Goods Returned Pharmaceuticals (Bulk and Dosage Form); Availability of Import Alert**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of revised Import Alert 66-14, which states the agency's policy concerning the automatic detention of American drugs (bulk and dosage form) imported or offered for import into the United States.

**ADDRESS:** Written requests for single copies of FDA Import Alert 66-14 should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the Branch in processing your requests.)

**FOR FURTHER INFORMATION CONTACT:** Richard I. Aleman, Division of Field Investigations (HFC-131), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6553.

**SUPPLEMENTARY INFORMATION:** Counterfeit and low quality returned American goods have been an issue of concern to FDA. To monitor the reimportation of returned American drugs and drug products, FDA first issued Import Alert 66-14 on September 9, 1985. The Import Alert was in response to investigations of counterfeit Ovulen 21, the ensuing concerns of Congress (particularly the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce in its hearings in the summer of 1986), and the increasing number of returned American drugs and drug products.

In accordance with 21 CFR 20.107 and 5 U.S.C. 552(a)(2)(C), FDA included the Import Alert in the agency's Regulatory Procedure Manual, an administrative staff manual that is available for public inspection and copying in the agency's Freedom of Information Staff office (HFI-35), 5600 Fishers Lane, Rm. 12A-30, Rockville, MD 20857. Prior to issuance of this Import Alert, local FDA district offices were detaining returned American goods in accordance with individual district office policy. The Import Alert and its subsequent revisions discussed below have served to ensure a consistent interpretation of FDA's authority under section 801 of the Federal Food, Drug, and Cosmetic Act

(the act) (21 U.S.C. 381) on a case-by-case basis.

FDA issued revised Import Alert 66-14 on August 6, 1986. This Import Alert Advises FDA's field offices to detain all drugs and drug products that appear to have been originally manufactured in the United States and that are being offered for import into the United States. The agency is publishing notice of the policy because of the broad public interest in the matter and to make clear FDA's position regarding detention of such drugs and drug products, in view of the recent attention focused on the subject.

Import Alert 66-14 delineates the information that an owner or consignee (importer) should provide to the agency to obtain the release of drugs or drug products that have been detained under the Import Alert. The Import Alert provides that, in evaluating requests for the release of such detained articles, FDA officials should determine whether the owner or consignee has established the following: (1) The location of the goods from the time the goods were exported until the time the goods were reimported (chain of custody); (2) that the goods originally were manufactured in the United States; (3) that the expiration date has not been exceeded; (4) that there is a satisfactory reason for the return of the goods that does not indicate a violation of the act; and (5) that the goods are not misbranded or adulterated under the act, to be shown by laboratory analysis. Under the Import Alert, failure to provide the information necessary to establish the conditions listed above warrants refusal of admission of the drugs or drug products.

The Import Alert, which revises an import alert previously issued on May 1, 1986, sets forth the agency's current interpretation of its authority, to be exercised at the agency's discretion under section 801(a) of the act, to detain drugs or drug products that appear adulterated within the meaning of section 501 of the act (21 U.S.C. 351) or that appear to be unapproved new drugs under section 505 of the act (21 U.S.C. 355). Returned American goods may appear to be adulterated drugs or to be new drugs until the owner or consignee is able to establish the origin of the goods, the location/storage of the goods since original manufacture, and the quality of the goods.

Revised Import Alert 66-14 provides further guidance on the laboratory analysis and examination that should be performed on each lot of goods before

release by the agency. The text of the revised Import Alert is on file in the Dockets Management Branch (address above). Requests for single copies of FDA Import Alert 66-14, August 6, 1986, Revised should reference the docket number found in brackets in the heading of this document and should be submitted in writing to the Dockets Management Branch.

Dated: January 2, 1987.

**John M. Taylor,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 87-324 Filed 1-7-87; 8:45 am]

BILLING CODE 4160-01-M

#### National Institutes of Health

##### National Heart, Lung, and Blood Institute; Pulmonary Diseases Advisory Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute on February 19-20, 1987 at the National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 9, Bethesda, Maryland 20892.

The entire meeting, from 8:30 a.m. on February 19 to adjournment on February 20, will be open to the public. The Committee will discuss the current status of the Division of Lung Diseases programs and Committee plans for fiscal year 1988. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Suzanne S. Hurd, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20892, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: December 29, 1986.

**Betty J. Beveridge,**

*Committee Management Officer.*

[FR Doc. 87-328 Filed 1-7-87; 8:45 am]

BILLING CODE 4140-01-M

##### National Heart, Lung, and Blood Institute; Blood Disease and Resources Advisory Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, February 23-24, 1987, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The Committee will meet in Building 31, Conference Room 8, C Wing.

The entire meeting will be open to the public from 9:00 am to 5:00 pm on February 23, and from 9:00 am to adjournment on February 24, to discuss the status of the Blood Diseases and Resources program needs and opportunities. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Communications and Public Information 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 Committee members.

Dr. Fann Harding, Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, Room 5A-08, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-1817, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 30, 1986.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 87-329 Filed 1-7-87; 8:45 am]

BILLING CODE 4140-01-M

##### National Heart, Lung, and Blood Institute; National Cholesterol Education Program Coordinating Committee Meeting

Notice is hereby given of the meeting of the National Cholesterol Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute, on February 6, 1987, from 9 a.m. to 3 p.m., at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814, (301) 652-2000.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities,

activities, and needs of the participating groups in the National Cholesterol Education Program. Attendance by the public will be limited to space available.

For the agenda, list of participants, and meeting summary, contact: Dr. James I. Cleeman, Coordinator, National Cholesterol Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, C-200, Bethesda, Maryland 20892, (301) 496-0554.

Dated: December 29, 1986.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 87-330 Filed 1-7-87; 8:45 am]

BILLING CODE 4140-01-M

### National Eye Institute, National Advisory Eye Council Meeting

Pursuant to Pub. L. 92-463, notice is hereby given to the meeting of the National Advisory Eye Council, National Eye Institute, January 26-27, 1987, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a.m. until approximately 12:00 noon on Monday, January 26, and from 1:00 p.m. until adjournment on January 27. Following opening remarks by the Director, National Eye Institute, there will be presentations by the staff of the Institute concerning Institute programs and various research assistance mechanisms. There will also be a report by the Director, NIH, on the Director's Advisory Committee. Attendance by the public will be limited to space available.

In accordance with 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 meeting will be closed to the public from approximately 12:00 noon until recess on Monday, January 26, and from 9:00 a.m. until approximately 12:00 noon on Tuesday, January 27, 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.

There will also be a meeting of the Vision Research Program Planning Subcommittee on Monday, January 26, from 7:00 p.m. to 9:00 p.m. to discuss the next NAEC five-year program plan.

Attendance by the public will be limited to space available.

Ms. Kay Valeda, Committee Management Officer, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4903, will provide summaries of meetings, rosters of committee members, and substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs, Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health.)

Dated: December 29, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-425 Filed 1-7-87; 8:45 am]

BILLING CODE 4140-01-M

### DEPARTMENT OF THE INTERIOR

#### Bureau of Indian Affairs

#### Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Interior Desk Officer, at (202) 395-7313.

Title: Housing Improvement Program (HIP)

Abstract: The Bureau's HIP provides housing assistance to needy Indians who are not eligible for this type of assistance through other Federally-assisted programs. Individuals who wish to participate in the HIP must contact their tribes. Tribes determine eligibility based on criteria listed in 25 CFR 256.5.

Bureau Form Number: None  
Frequency: On occasion  
Description of Respondents: Indians who need new or better housing.  
Annual Responses: 3,500  
Annual Burden Hours: 875  
Bureau Clearance Office: Cathie Martin, (202) 343-3577

John D. Geary,

Acting Deputy to the Assistant Secretary, Indian Affairs (Tribal Services).

[FR Doc. 87-315 Filed 1-7-87; 8:45 am]

BILLING CODE 4310-02-M

#### Information Collection Resubmitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been resubmitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This resubmission reduces the annual burden as a result of form improvement. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7340.

Title: Education Contracts Under Johnson-O'Malley Act—Application and Regulatory Requirements, 25 CFR Part 273

Abstract: Eligible contractors must meet application, reporting and other regulatory requirements for educational program funding which is supplemental to other sources of funding. Contractors and Indian education committees develop education programs to meet the special and unique needs of eligible Indian students.

Bureau Form Numbers: 62116 and 62118  
Frequency: No. 62116 Annually; No. 62118 Semi-annual

Description of Respondents: Tribes, tribal organizations, public school districts and state education departments.

Annual Responses: 927

Annual Burden Hours: 25,709

Bureau clearance officer: Cathie Martin, (202) 343-3577.

Nancy C. Garrett,

Acting Deputy to the Assistant Secretary/Director, Indian Affairs (Indian Education Programs).

[FR Doc. 87-316 Filed 1-7-87; 8:45 am]

BILLING CODE 4310-02-M

#### Bureau of Land Management

[CA-940-07-4520-12; Group 979]

#### California; Filing of Plat of Survey

December 29, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

**San Bernardino Meridian, Santa Barbara County**

T. 4 N., R. 25 W.

2. This plat representing the completion survey of a portion of the west boundary, and a portion of the subdivisional lines, Township 4 North, Range 25 West, San Bernardino Meridian, California, under Group No. 979, California, was accepted December 17, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the U.S. Forest Service and the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

*Chief, Records and Information Section.*

[FR Doc. 87-319 Filed 1-7-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12; Group 715]

**California; Filing of Plat of Survey**

December 29, 1986.

1. These plats of the following described lands will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Placer County

T. 15 N., R. 16 E.

2. Six plats represent the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of section 12, the survey of certain lot boundaries, and the informative traverse of the Truckee River, Township 15 North, Range 16 East, MDM, under Group No. 715, California, were accepted October 15, 1986.

Mount Diablo Meridian, Placer County

T. 16 N., R. 16 E.

3. Eleven plats represent the dependent resurvey of a portion of the Third Standard Parallel North along a portion of the south boundary, a portion of the west and north boundaries, a portion of the subdivisional lines, the subdivision of sections 4, 8, 28, 30, 33, and 34, the survey of certain lot boundaries, and the informative traverse of the Truckee River, Township 16

North, Range 16 East, MDM, under Group No. 715, California, were accepted October 15, 1986.

Mount Diablo Meridian, Placer County

T. 17 N., R. 16 E.

4. Four plats represent the dependent resurvey of a portion of the subdivisional lines, the survey of the certain lot boundaries, and the informative traverse of the Truckee River, Township 17 North, Range 16 East, MDM, under Group No. 715, California, were accepted October 15, 1986.

5. These plats will immediately become the basic records of describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

6. These plats were executed to meet certain administrative needs of the U.S. Forest Service and the Bureau of Land Management.

7. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

*Chief, Records and Information Section.*

[FR Doc. 87-320 Filed 1-7-87; 8:45 am]

BILLING CODE 4310-40-M

[UT-050-07-4322-10]

**Utah; Availability of Draft Environmental Assessment (EA)****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of comment period for the change of livestock class in the Burr Point Allotment Draft EA, ending 30 days from publication of this notice.**SUMMARY:** The proposed action is to change the kind of livestock in the Burr Point Allotment from sheep and cattle to all cattle. A small portion of the Burr Point Allotment falls within the Bull Mountain Wilderness Study Area (UT-050-242).

The draft EA is available at the Richfield District Office, 150 East 900 North, Richfield, Utah 84701. For additional information contact Roy Edmonds, Environmental Coordinator, at the above address or call 801-896-8221.

Donald L. Pendleton,

*District Manager.*

December 22, 1986.

[FR Doc. 87-317 Filed 1-7-87; 8:45 am]

BILLING CODE 4310-DQ-M

[MT-932-06-4333-10; MT-060-8701]

**Montana; Off-Road Vehicle Designation Decisions****AGENCY:** Bureau of Land Management—Lewistown District Office, Interior.**ACTION:** Notice of off-road vehicle designation decisions.

Decision: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under the administration of the Bureau of Land Management are designated as open or limited to off-road motorized vehicle use. No acreage has been designated as closed.

The 3,434,819 acre area affected by the designations is part of the Lewistown District which includes public lands in the following counties: Petroleum, Fergus, Judith Basin, Chouteau, Glacier, Toole, Liberty, Hill, Blaine, Phillips, and Valley. These designations are a result of resource management decisions made in the Petroleum Management Framework Plan (1978), Belt Mountains/Fergus MFP (1978), Triangle MFP (1978), South Bearpaw MFP (1978), Phillips MFP (1978), and Valley MFP (1978). Comments received from public meetings and written responses influenced the designation decisions. These designations are published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

**A. Open Designation**

Areas which are designated open comprise approximately 2,872,059 acres. Open designation was determined to be appropriate for these public lands since off-road vehicle use is an important recreational activity and is essential for the conduct of other authorized resource uses.

**B. Limited Designation**

1. Use limited to designated roads and trails—150,987 acres.

Bitter Creek is located 25 miles northwest of Glasgow, Burnt Lodge is southwest of Glasgow, Antelope Creek and Cow Creek are southwest of Malta, Ervin Ridge and Stafford are south of Chinook, Dog Creek South is north of Lewistown and Woodhawk is northeast of Lewistown. Vehicle use in these areas is permitted on designated roads and trails which will be identified with signs.

2. Use limited to existing roads and trails—184,320 acres.

Frenchmen Creek is located north of Hinsdale, Cottonwood Creek is northwest of Malta, Little Rockies is southwest of Malta, and South Blaine Breaks area is south of Chinook. Cross-country travel by motorized vehicles is prohibited in these areas.

3. Use limited to slopes of 30% or less—227,453 acres.

The Missouri Breaks area is located south of the Missouri River and north of Lewistown, Musselshell Breaks is adjacent to Musselshell River and northeast of Winnett, Judith River area is north of Lewistown, Arrow Creek is northeast of Lewistown, Highwood Mountains are east of Great Falls, Belt Mountains are southwest of Lewistown, Snowy Mountains are south of Lewistown, North and South Moccasin are just north of Lewistown, Judith Mountains are northeast of Lewistown, and Yellow Water area is southwest of Winnett. Fragile soils and severe erosional factors restrict the use of vehicles to slopes of 30% or less in these areas.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer.

**ADDRESS:** For further information about these designations, contact the following Bureau of Land Management official: District Manager, Lewistown District Office, Airport Road, Lewistown, MT 59457, (406) 538-7461.

Dated: December 31, 1986.

Duane Whitmer,

Acting District Manager.

[FR Doc. 87-318 Filed 1-7-87; 8:45 am]

BILLING CODE 4310-DN-M

## Fish and Wildlife Service

### Endangered and Threatened Species; Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-714333

Applicant: Hogle Zoological Garden, Salt Lake City, Utah.

The applicant requests a permit to export one captive born male jaguar (*Panthera onca*) to the Center for the Propagation of Endangered Panamanian Species, Panama, for the purpose of captive breeding.

PRT-714258

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to import two captive-born female cheetahs (*Acinonyx jubatus*) from R.A. Kulenkampff of Wiesenhof Wildpark, Klappmuts, Republic of South Africa for the purpose of captive breeding.

PRT-714651

Applicant: Tarzan Zerbini International Circus, Carthage, MO.

The applicant requests a permit to import a group of 12 Bengal tigers (*Panthera tigris*) known as the Louis Knie Performing Tigers, from the Schweizer National Circus, Rapperswil, Switzerland. The applicant proposes to enhance the survival of the species by educating the public about their conservation needs. The group will tour the United States and Canada for approximately two years before returning to Switzerland.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: January 5, 1987.

Robert Kavetsky,

Acting Chief, Branch of Permits Federal Wildlife Permit Office.

[FR Doc. 87-385 Filed 1-7-87; 8:45 am]

BILLING CODE 4310-55-M

## INTERSTATE COMMERCE COMMISSION

[Docket No. AB-1 (Sub-192X)]

### Chicago & North Western Transportation Co.; Abandonment Exemption; Guthrie and Dallas Counties, IA

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by Chicago and North Western Transportation Company of 33 miles of track in Guthrie and Dallas Counties, IA, subject to standard labor protection, and a public use condition.

**DATES:** This exemption is effective February 9, 1987. Petitions to stay must be filed by January 23, 1987, and petitions for reconsideration must be filed by February 2, 1987.

**ADDRESSES:** Send pleadings referring to Docket No. AB-1 (Sub-No. 192X) to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Petitioner's representative: Christopher A. Mills, Esq., One North Western Center, 165 North Canal Street, Chicago, IL 60606.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245.

### SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area), or toll-free (800) 424-5403.

Decided: January 2, 1987.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 87-349 Filed 1-7-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30956]

### Missouri-Kansas-Texas Railroad Co.; Trackage Rights; Burlington Northern Railroad Co.

Burlington Northern Railroad Company (BN) has agreed to grant overhead trackage rights to Missouri-Kansas-Texas Railroad Company over BN's line between milepost E-632.40 and milepost E-636.60, a distance of approximately 4.2 miles near Denison, in Grayson County, TX. The trackage rights are effective December 29, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: December 30, 1986.



By the Commission, Jane F. Mackall,  
Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-350 Filed 1-7-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30592; Sub-No. 1]

**Burlington Northern Railroad Co.;  
Trackage Rights; Chicago and North  
Western Transportation Co.**

Chicago and North Western Transportation Company has agreed to grant overhead trackage rights to Burlington Northern Railroad Company (BN) for a distance of 4,195 feet in Superior, Wisconsin. These trackage rights are granted to BN in its capacity as operator of the property of the Lake Superior Terminal and Transfer Railway Company. The trackage rights will be effective on January 1, 1987.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 ICC 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 ICC 653 (1980).

Dated: January 5, 1987.

By the Commission, Jane F. Mackall,  
Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-377 Filed 1-7-87; 8:45 am]

BILLING CODE 7035-01-M

**NATIONAL ARCHIVES AND RECORDS  
ADMINISTRATION**

**Agency Records Schedules;  
Availability**

**AGENCY:** National Archives and Records Administration, Office of Records Administration.

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes a notice at least once monthly of agency requests for records disposition authority (records schedules) which include records being proposed for disposal or which will reduce the records retention period for records already authorized for disposal. Records

schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records that lack archival value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

**DATE:** Requests for copies must be received in writing on or before [February 23, 1987].

**ADDRESS:** Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the title of the requesting agency. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

**Supplementary Information:** Each year U.S. Government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the value of the records for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

This public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records to be scheduled for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

**Schedules Pending Approval**

1. Department of the Army, Office of the Adjutant General, Records Management Division (NC1-AU-84-29). Records relating to preparation of research reports at the U.S. Military Academy (final reports themselves are permanent).

2. Department of the Air Force, Directorate of Administration, U.S. Air Force Academy (NC1-461-85-1). Air Force Academy Educational Research Data Base and Institutional Research Project findings.

3. Department of the Air Force, Directorate of Administration, Records Management Branch (NC1-AFU-85-37). Honors and Awards records.

4. Department of the Air Force, Directorate of Administration, Records Management Branch (N1-AFU-87-8). Security classified document control records, including registers, destruction certificates, and receipts.

5. Department of the Army, Office of the Adjutant General, Records Management Division (NC1-AU-85-66). Materiel Engineering records.

6. Department of the Army, The Adjutant General's Office, Records Management Division (NC1-AU-85-73). Unfunded study files.

7. Department of the Air Force, Directorate of Administration, Records Management Branch (N1-AFU-86-41). Air Base Survivability Records.

8. Department of the Air Force, Directorate of Administration, Records Management Branch (N1-AFU-86-52). Maintenance Badge records.

9. Department of the Air Force, Directorate of Administration, Records Management Branch (N1-AFU-86-64). Suspense copies of awards requests.

10. Department of the Army, Assistant Chief of Staff for Information Management, Records Programs Division (N1-AU-86-54). Task Analyses Files, Task Analyses Background Files, and Training Development Files.

11. Department of the Navy, Naval Data Automation Command, Naval Military Personnel Command (N1-NU-86-1). Military Personnel Management Records (comprehensive schedule pertaining to administration of military personnel; schedule provides for permanent retention of key policy records and other historically valuable files).

12. Department of the Navy, Naval Data Automation Command (N1-NU-86-3). Civilian Personnel Management Records (comprehensive schedule pertaining to administration of civilian personnel; schedule provides for permanent retention of key policy records).

13. Department of the Air Force, Directorate of Administration, Records Management Branch (N1-AFU-87-7). Records relating to airfield facility inspections.

14. Agency for International Development, Washington Headquarters

(N1-286-86-1). Comprehensive schedule for headquarters records.

15. Department of Agriculture, National Agricultural Library (N1-310-86-4). Comprehensive schedule for administrative and program records of the library.

16. Department of Agriculture, Forest Service, Timber Management (N1-95-86-5). Correspondence generated in the course of producing timber management plans (the plans themselves are designated for eventual transfer to the National Archives).

17. Department of Agriculture, Forest Service (N1-95-87-2). Chief and staff notes located at all offices other than the originating office. The originating office copy is proposed for transfer to the National Archives.

18. Department of Agriculture, Agricultural Stabilization and Conservation Service, Kansas City Management Office (N1-145-87-2). Reports of computer related hardware and software problems experienced by users of State and County Office Automation Project.

19. President's Committee on Equal Employment Opportunity (N1-220-87-2). Budget Files of the defunct President's Committee on Equal Employment Opportunity.

20. Farm Credit Administration (N1-103-86-2). Securities files and ledger accounting system files for securities issued.

21. Federal Communications Commission, Common Carrier Bureau (NC1-173-85-4). Annual reports filed by telephone, telegraph, and other communications common carrier companies.

22. Federal Communications Commission, Mass Media Bureau (N1-173-86-2). Applications, licenses, and associated records relating to regulation of mass media broadcast stations.

23. General Services Administration, Public Buildings Service, Office of Federal Protection and Safety (NC1-121-85-1). Comprehensive schedule for records relating to the Federal protection and safety programs.

24. Interstate Commerce Commission, Bureau of Traffic (NC1-134-83-4). Revisions to comprehensive disposition schedule for the Bureau of Traffic.

25. Interstate Commerce Commission, Office of Compliance and Consumer Assistance (NC1-134-83-6). Comprehensive schedule for the Office of Compliance and Consumer Assistance and its various components.

26. Department of Justice, Federal Bureau of Investigation, Records Management Division (N1-65-88-7, -9, -10, -19, and -21). Documentation containing personal information of

insufficient historical or other value to warrant archival retention. Expunction of the information has been mandated by settlement of an administrative claim or legal action, or by order of a Federal court.

27. Department of Justice, Federal Bureau of Investigation, Records Management Division (N1-65-86-12). Copies of field office listings of numbers for case files that have been destroyed pursuant to the agency's records schedules.

28. Department of Justice, Immigration and Naturalization Service (N1-85-87-1). Forms used to facilitate transmittal of immigrant visas to the Immigrant Data Capture Operation facility.

29. Department of Justice, Foreign Claims Settlement Commission (N1-299-86-1). Correspondence and case files relation to claims under the first and second Czechoslovakian and Vietnam claims programs.

30. National Archives and Records Administration, Office of Records Administration (N1-CRS-86-4). Employee medical folders maintained by all federal agencies.

31. Department of Labor, Mine Safety and Health Administration (NC1-433-85-1). Mine accident reports and documentation relating to analysis and implementation of mine safety practices.

32. Bureau of Labor Statistics, Office of Wages and Industrial Relations (N1-257-86-2). Comprehensive schedule covering records relating to the Bureau's statistical analysis and research program of employee compensation and industrial relations.

33. Department of State, Bureau for Management, Office of Foreign Service Institute (N1-59-87-3). Orientation and training films and speaker card index to the films.

34. Tennessee Valley Authority, Office of Power, Division of Conservation and Energy Management (N1-142-87-3). Records generated by the energy package program, designed to survey residential energy customers' homes, recommend and implement energy efficiency improvements.

35. Department of the Treasury, Financial Management Service, Fund Flow Division (N1-425-86-1). Records generated in the course of maintaining and monitoring government deposits with depositary banks.

36. Veterans Administration, Department of Memorial Affairs (NC1-15-85-9, -14, and -15). Records relating to administration of VA cemeteries (schedules provide for permanent retention of key policy records and other historically valuable files).

Dated: December 31, 1986.

Frank G. Burke,

Acting Archivist, for the United States.

[FR Doc. 87-382 Filed 1-7-87; 8:45 am]

BILLING CODE 7515-01-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Agency Information Collection Activities Under OMB Review

**AGENCY:** National Endowment for the Humanities, NFAH.

**ACTION:** Notice.

**SUMMARY:** The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATE:** Comments of this information collection must be submitted on or before February 9, 1987.

**ADDRESSES:** Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 786-0233, and Ms. Judy Egan, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, DC 20503, (202) 395-6880.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Service Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 786-0233, from whom copies of forms and supporting documents are available.

**SUPPLEMENTARY INFORMATION:** All of the entries are grouped into new forms, revisions or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) and estimate of the number of hours needed to fill out the form. None one these entries are subject to 44 U.S.C. 3504(h).

### Category Revision

*Title:* Process of Application, Evaluation, Award, and Report of NEH Fellowship for College Teachers and Independent Scholars and Fellowships for University Teachers.

*Form Number:* OMB No. 3136-0083.

*Frequency of Collection:* The program has a deadline once a year for applicants to apply for support. Applicants apply only when they need support.

*Respondents:* The respondents are scholars, writers, and teachers in the humanities.

*Use:* NEH uses the information solicited in the process of evaluation, award making, and final reporting for NEH Fellowships.

*Estimated Number of Respondents:* 15,530.

*Estimated Hours for Respondents to Provide Information:* At an average of 1.5 hours per response for each respondent, the total number of hours from all respondents is 23,295.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 87-355 Filed 1-7-87; 8:45 am]

BILLING CODE 7536-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-400]

### Carolina Power and Light Co. and North Carolina Eastern Municipal Power Agency; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from a portion of the requirements of Appendix E to 10 CFR Part 50 to the Carolina Power & Light Company (CP&L), and North Carolina Eastern Municipal Power Agency (the licensees) for the Shearon Harris Nuclear Power Plant, Unit 1, located in Wake and Chatham Counties, North Carolina. The exemption was requested by the licensees by letter from CP&L dated March 4, 1986.

#### Environmental Assessment

##### Identification of Proposed Action

The exemption will permit the licensees, following the Commission's issuance of a full power operating license for the facility, to operate the unit above 5% of its rated power without conducting another offsite full participation emergency preparedness exercise prior to February 1987.

Section IV.F.1 of 10 CFR Part 50, Appendix E, requires that a full participation exercise of the offsite emergency preparedness plans be conducted within 1 year prior to operation above 5% of rated power. The Harris emergency plan was previously

exercised on May 17-18, 1985, with State and local participation.

##### The Need for the Proposed Action

The proposed exemption is needed to permit the licensee to proceed with operation above 5% of rated power prior to conducting another offsite emergency preparedness exercise. The next exercise with full participation at the State and County level is presently scheduled for February 1987. This date would not be timely for Harris, which is expected to be ready in January 1987 for operation above 5% of rated power.

##### Environmental Impact of the Proposed Action

The exemption would not affect the environmental impact of the facility because the level of emergency preparedness will not be degraded by its issuance. Both FEMA and the NRC concluded from the May 1985 exercise that the results provide reasonable assurance of adequate offsite emergency preparedness relative to the Harris Plant. Therefore, the proposed exemption does not involve a significant radiological environmental impact. In addition, the action would have no effect on nonradiological environmental impacts associated with the Harris Plant.

##### Alternative to the Proposed Action

Because the staff has concluded that there is no significant impact associated with the proposed exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

##### Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement for Shearon Harris, Unit 1, dated October 1983.

##### Agencies and Persons Consulted

The NRC staff consulted FEMA regarding its report of the May 1985 exercise. No other agencies or persons were contacted.

##### Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the environmental assessment, we conclude that proposed action will not have significant effect on the quality of the human environment. The Commission has, therefore, determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application for exemption dated March 4, 1986, as supplemented May 2, June 10, and July 10, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610.

Dated at Bethesda, Maryland, this 5th day of January, 1987.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, PWR Project Directorate No. 2, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 87-363 Filed 1-7-87; 8:45 am]

BILLING CODE 7590-01-M

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of the Office of Management and Budget (OMB) review of information collection.

**SUMMARY:** The Nuclear Regulatory Commission has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.
2. The title of the information collection: 10 CFR Part 50.
3. The form number if applicable: N/A.
4. How often the collection is required: As necessary in order for NRC to meet its responsibilities to conduct a detailed review of applications for licenses, and amendments thereto, to construct and operate power plants, research and test facilities, reprocessing plants and other utilization and production facilities, licensed pursuant to the Atomic Energy Act of 1954, as amended (the Act).
5. Who will be required or asked to report: Licensees and applicants for nuclear power plants, and research and test reactors.
6. An estimate of the number of responses: 2,386 annually.
7. An estimate of the total number of hours needed to complete the requirement or request: 3,928,649.
8. An indication of whether section 3504(h), Pub. L. 9696-511 applies: Not applicable.
9. Abstract: 10 CFR Part 50 of the NRC's regulations, "Domestic Licensing

of Production and Utilization Facilities," specifies technical information and data to be provided by applicants and licensees so that the NRC may make determinations necessary to promote the health and safety of the public, in accordance with the Act.

**ADDRESS:** Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

**FOR FURTHER INFORMATION CONTACT:** Comments and questions should be directed to the OMB reviewer: Jefferson B. Hill, (202) 395-7340.

NRC Clearance Officer is Brenda Jo Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this twenty-third day of Dec., 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 87-362 Filed 1-7-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-352]

**Philadelphia Electric Co.;  
Consideration of Issuance of  
Amendment to Facility Operating  
License and Propose No Significant  
Hazards Consideration Determination  
and Opportunity for Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-39 issued to Philadelphia Electric Company for operation of the Limerick Generating Station, Unit 1, located in Montgomery County, Pennsylvania.

The proposed amendment would change the Technical Specifications (TS) and would satisfy a condition to the facility operating license in accordance with the licensee's application for amendment dated November 17, 1986 as amended on December 22, 1986. The proposed changes would revise Technical Specification (TS) 3/4.2.3 "Minimum Critical Power Ratio," TS Table 3.3.6-2, "Control Rod Block Instrumentation Setpoints," and TS 4.4.1.1.2, "Reactor Coolant System-Surveillance Requirements." License Condition 2.C(13), "Operation With Partial Feedwater Heating at End-of-Cycle" would be satisfied since the basis for the condition, namely that the applicable safety analyses to permit operation with partial feedwater heating (PFH) had not been performed, has been satisfied by the submittal of such analysis by the licensee. The reason for these changes is to permit operation of the unit with PFH and increased core

flow (ICF) in order to extend the fuel cycle and provide increased operational flexibility. The proposed increase in core flow up to 105 percent of rated flow and the proposed decrease in feedwater temperature by up to 60°F tend to decrease the percentage of voiding in the coolant in the reactor core. This results in increased moderator density with an attendant increase in reactivity and hence power level. The ability to thus increase power level above that which the reactor would otherwise be capable of without PFH and ICF late in the fuel cycle is desirable to offset the reduction in power production late in the fuel cycle due to depletion of fissionable material. While continuing to meet all safety analysis acceptance criteria, the proposed changes will result in operations at a relatively higher power level for several months and will also provide an estimated one to two weeks extension of full power cycle length. This amendment does not involve an increase above the currently licensed power level.

The proposed changes consist of the following:

a. The minimum critical power ratio (MCPR) limits in TS 3/4.2.3 would be revised by the addition of specified MCPR limits for operation with ICF and PFH as shown on TS pages 3/4 2-8, 8a, 9, Figure 3.2.3-1a and Figure 3.2.3-1b. The additional limits for operation with ICF and PFH ensures that abnormal operational transients initiated when operating with ICF and PFH do not result in violation of the safety limit MCPR. The safety limit MCPR is unchanged from the value previously provided in the Final Safety Analysis Report (FSAR).

b. The addition of a "high flow clamped" trip setpoint limit of 106 percent and allowable value of 109 percent of rated flow for the rod block monitor upscale alarm in TS Table 3.36-2 ensures that the rod blocks currently included in the TS cannot be exceeded. This is the same requirement that has been in effect since initial plant operation.

c. Changing the control rod block instrument setpoints for the reactor coolant system recirculation flow upscale trip setpoint from 108 to 111 percent of rated flow and the allowable value from 111 to 114 percent of rated flow in TS Table 3.36-2 ensures that the indication and alarm functions for this parameter will be provided to the operators at a sufficiently greater value than the 105 percent upper limit on flow to allow for hardware uncertainties and signal noise. This parameter serves an indication and alarm function only to the plant operator and is not directly

involved in plant protective actions and safety analyses.

d. Changing the recirculation pump motor-generator set scoop tube mechanical overspeed stop setpoint from 105 to 109 percent and the electrical overspeed stop setpoint from 102.5 to 107 percent of rated core flow in TS 4.4.1.1.2 provides adequate margin to allow the recirculation pump to operate up to 105 percent of rated flow.

e. An addition to the list of references on page 3/4 2-5 has been made to reflect the analysis report provided in support of the amendment application. A change to index page xi has been made to reflect the additional table and figure for the MCPR limits.

The licensee proposes to make these changes to the TS to extend the Cycle 1 operating time by several months by operating at reduced thermal power with commensurate feedwater temperature and steam pressure conditions. Continued operation is possible because reduced steam voids, reduced fuel temperature and reduced equilibrium xenon yield reactivity gains which compensate for reactivity losses due to depletion of fissionable material near the end of the fuel cycle. The amendment does not involve an increase above the currently licensed power level.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided analyses of significant hazards considerations in its request for a license amendment. The licensee has concluded with appropriate bases, that the proposed amendment satisfies the standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations.

The NRC staff has made a preliminary review of the licensee's submittals.

The staff's evaluation of the proposed changes is provided below.

*Standard 1—Involve a significant increase in the probability or consequences of an accident previously evaluated*

The anticipated operational occurrences (AOOs) and accidents that have the potential for being impacted by the proposed changes are generator load rejection with steam bypass failure (LRNBP), feedwater controller failure to maximum demand (FWCF), FWCF without bypass, FWCF without bypass and recirculation pump trip, MSIV closure with flux scram, rod withdrawal error, fuel loading error, rod drop accident, LOCA and ATWS. All these AOOs and accidents have been reassessed to determine the consequences resulting from the proposed changes. The results of these assessments show that the consequences are within the appropriate acceptance criteria discussed below.

Standard Review Plan (SRP) 15.1.2 requires that increase in feedwater flow events be evaluated and SRP 15.2.1-15.2.5 requires that loss of load and closure of MSIVs be evaluated considering the potential for fuel damage or excessive reactor system pressure. The acceptance criteria are that the critical power ratio must remain above the MCPR safety limit and that system pressure should be maintained below 110 percent of the design value. The results of the FWCF and the FWCF without bypass or recirculation pump trip analyses indicate that the MCPR remains above the safety limit value of 1.06 and that system pressure is well below the limit of 1375 psig. The results of the LRNBP and the MSIV closure, which is the limiting overpressure transient, indicate that MCPR remains above the safety limit value of 1.06 and that peak vessel pressure does not exceed 1273 psig, thus maintaining a 102 psig margin to the limit of 1375 psig.

The rod withdrawal error transient was evaluated. As shown in TS Table 3.3.6-2 the control rod block monitor upscale trip setpoint is a function of flow rate,  $W$ , and would increase to a value of 106 percent at rated flow conditions. Operating with ICF, without other compensations, would allow this setpoint to increase beyond 106 percent. Therefore the licensee has limited or "clipped" the trip setpoint to a maximum value of 106 percent. Thus the results of this transient are unchanged.

SRP 15.4.7 specifies that the worst case fuel loading error be determined and that the effect on reactor power distribution be determined. The results of the analysis considering ICF and PHF indicate that this does not become the

limiting MCPR event nor does it reduce overall MCPR margin.

SRP 15.6.5 specifies the acceptance criteria for loss-of-coolant accidents. Results of analyses of the effects of ICF and PFH on peak cladding temperature (PCT) show that it increases by less than 10°F for the limiting break and that the previously established maximum average planar linear heat generation rates (MAPLHGRs) are applicable for ICF and PHF operations.

The results of analysis of effects of ICF and PFH on anticipated transients without scram (ATSW) show that performance is within design allowable limits for overpressure protection, core and fuel performance, containment performance and stability and that, furthermore, these results are bounded by the results of previously performed analyses.

The results of analysis of effects of ICF and PFH on containment performance show that the containment parameters are bounded by the results previously reported in the FSAR except for the drywell deck downward differential pressure, the pool swell loads, the condensation oscillation and chugging loads which are bounded by the previously established design values.

Therefore, since all AOO's and accidents which may have been impacted by the proposed changes have been analyzed and found to be acceptable, the proposed changes will not significantly increase the probability or consequences of any accident previously evaluated.

*Standard 2—Create the possibility of a new or different kind of accident from any accident previously evaluated*

Operation with ICF and PFH does not involve any equipment design changes. If effectively provides for normal plant operation in an increased area of the power-flow operating map. While events previously analyzed may be initiated from new operating conditions, no new path is created that could lead to a new or different kind of accident. With the incorporation of the new MCPR, rod block and recirculation pump speed limits, operation is kept within equipment design and regulatory limits. The licensee concluded, and staff agrees, that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

*Standard 3—Involve a Significant Reduction in a Margin of Safety*

The purpose of the revised MCPR limits for operation with ICF and PFH is to ensure that AOO's initiated during

ICF and PFH operations do not result in violation of the MCPR safety limit. In the analyses of AOOs the revised MCPR limits have been shown to be sufficient to accomplish this objective and thus preserve a margin to safety equivalent to that previously established.

As discussed above, the changes concerning the rod withdrawal error transient ensure that the margin is unchanged for this event.

The control rod block instrument setpoints for the recirculation flow trip setpoint are for the purpose of providing indication and alarms to the operator and thus have not been relied upon to establish the margin to design or safety limits. However, since the core flow would be increased by five percent and this trip setpoint would be increased by only three percent, the difference between the intended flowrate and the trip setpoint would be reduced thus enhancing its function as an indication and alarm of unintended high flow operation.

The recirculation pump motor-generator set mechanical and electrical overspeed stop setpoints have been increased from 105 to 109 percent and from 102.5 to 107 percent respectively. These setpoints will ensure that the set trips either on the mechanical or the electrical stops at either 107 or 109 percent of rated speed. The effect on plant design transients with a maximum core flow runout to 107 percent and 109 percent has been considered. Whereas the core flow rate would be increased by five percent the mechanical and electrical overspeed stops are only being increased by 4 and 4.5 percent, respectively, thus enhancing the function of the stops to prevent unintended high flow operation. The effects on the MCPR limits for flows up to 109 percent has also been considered.

The results of operation with ICF and PFH on the mechanical loads on reactor internals and fuel assemblies, the flow induced vibration of reactor internals and on the feedwater nozzle and sparger fatigue usage factors were also considered and found not to involve significant reductions in the margin of safety associated with these parameters. Therefore, the operation of the facility in accordance with the proposed changes will not involve a significant reduction in a margin of safety.

Accordingly, the Commission proposes to determine that the proposed changes to the facility operating license and to the Technical Specifications to allow plant operations with increased core flow and partial feedwater heating does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this *Federal Register* notice. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

By February 9, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to

which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such 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 amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide

for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: 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 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 Walter R. Butler, Director, BWR Project Directorate No. 4, Division of BWR Licensing: 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 Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner and Wetterhahn, 1747 Pennsylvania Avenue, Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the 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 November 17, 1986, as amended on December 22, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Bethesda, Maryland, this 5th day of January, 1987.

For the Nuclear Regulatory Commission.

**Walter R. Butler,**

*Director, BWR Project Directorate No. 4,  
Division of BWR Licensing.*

[FR Doc. 87-364 Filed 1-7-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

**Meeting of the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 GPU Nuclear Corp.**

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island Unit 2 (TMI-2) will be meeting on January 21, 1987, from 7:00 p.m. to 10:00 p.m. at the Lancaster Council Chambers, Public Safety Building, 201 N. Duke Street, Lancaster, PA 17603. The meeting will be open to the public.

At this meeting, the Panel will receive a status report on the progress of defueling from the licensee, General Public Utilities Nuclear Corporation. Representatives of the NRC will summarize the recently issued supplement to the Programmatic Environmental Impact Statement dealing with the licensee's plans for the disposal of the accident-generated water. Members of the public will be given the opportunity to address the Panel.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Cleanup Project Directorate, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492-7743.

Dated: January 2, 1987.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 87-386 Filed 1-7-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8027-MLA; ASLBP No. 85-513-03-ML]

**Sequoyah Fuels Crop; (Sequoyah UF<sub>6</sub> to UF<sub>4</sub> Facility); Hearing**

January 2, 1987.

Before Administrative Judge: John H. Frye, III.

Please take notice that an evidentiary hearing in this proceeding will begin at 4:45 p.m. Monday, January 12, 1987, and continue until noon Friday, January 16, 1987, if necessary. The hearing will be held in the City Hall Civic Center, 111 North Elm Street, Sallisaw, Oklahoma. On the days following Monday, the hearing will begin at 9 a.m.

Limited appearance statements from members of the public who are not parties will be heard from 5:00-6:00 p.m. and from 7:00-9:00 p.m. on Monday, January 12. If necessary in order to permit all who desire to make a statement the opportunity to do so,

limited appearance statements will be limited to five minutes.

Bethesda, Maryland.

John H. Frye, III,

Administrative Judge.

[FR Doc. 87-387 Filed 1-7-87; 8:45 am]

BILLING CODE 7590-01-M

**SMALL BUSINESS ADMINISTRATION**

[License No. 01/01-0339]

**Issuance of a Small Business Investment Company License; Chestnut Street Partners, Inc.**

On June 27, 1986, a notice was published in the *Federal Register* (Vol. 51-23488) stating that an application has been filed by Chestnut Street Partners, Inc., 45 Milk Street, Boston, Massachusetts 02109, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1986)) for a license as a small business investment company.

Interested parties were given until close of business July 28, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01-0339 on December 3, 1986, to Chestnut Street Partners, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 17, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-335 Filed 1-7-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5236]

**Renaissance Capital Corp.; Issuance of a Small Business Investment Company License**

On July 10, 1986, a notice was published in the *Federal Register* (51 FR 132), stating that an application has been filed by Renaissance Capital Corporation, 230 Peachtree Street, Atlanta, Georgia 30303, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1986)) for a license as a small business investment company.

Interested parties were given until close of business of August 9, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04-5236 on December 5, 1986, to Renaissance Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 29, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-369 Filed 1-7-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-0180]

**Issuance of a Small Business Investment Company License; Washington Ventures, Inc.**

On October 3, 1986, a notice was published in the *Federal Register* (VOL. 51-35451) stating that an application has been filed by Washington Ventures, Inc., 619 14th Street NW., Washington, DC 20005 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1986)) for a license as a small business investment company.

Interested parties were given until close of business of November 3, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/03-0180 on December 3, 1986, to Washington Ventures, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: December 17, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-334 Filed 1-7-87; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF STATE

[Public Notice CM-8/1035]

**Advisory Committee on South Africa;  
Closed Meeting**

The Advisory Committee on South Africa will meet in a closed session on January 19, 1987. The Committee determined that an additional meeting would be required beyond those originally anticipated. The meeting will commence at 9:30 a.m. and will be held in Room 7219, Department of State, Washington, DC. Because of the Committee's need to meet the January 29 deadline for the completion of its final report, this notice is being given less than 15 days before the date of the meeting.

The session will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (c)(9)(B). The Committee will have access to and will discuss classified information. Disclosure of the Committee's deliberations could adversely affect the Committee's ability to function as a group in providing the Secretary of State with advice on matters of critical importance to the conduct of United States foreign policy. The purpose of the meeting will be to evaluate U.S. policy toward South Africa and to work towards completion of the Committee's final report.

Requests for further information should be directed to: Ann Miller, (202) 632-0190, 1730 K Street, NW., Washington, DC. 20006.

Dated: January 5, 1987.

Keith McCormick,

Deputy Executive Director.

[FR Doc. 87-431 Filed 1-7-87; 8:45 am]

BILLING CODE 4710-26-M

## DEPARTMENT OF TRANSPORTATION

**Federal Aviation Administration****Billings-Logan International Airport,  
Billings, MT; Noise Exposure Map  
Notice, Receipt of Noise Compatibility  
Program and Request for Review**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Billings-Logan International Airport (BIL) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are

in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for BIL under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before June 20, 1987.

**DATES:** The effective date of the FAA's determination on the BIL noise exposure maps and of the start of its review of the associated noise compatibility program is December 22, 1986. The public comment period ends February 6, 1987.

**FOR FURTHER INFORMATION CONTACT:** Dennis Ossenkop, FAA, Airports Division, ANM-611, 17900 Pacific Hwy S., C-68966, Seattle, WA 98168.

Comments on the proposed noise compatibility program should also be submitted to the above office.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA finds that the noise exposure maps for BIL are in compliance with applicable requirements of Part 150, effective December 22, 1986. Further, FAA is reviewing a proposed noise compatibility program for the airport which will be approved or disapproved on or before June 20, 1987. This notice also announces the availability of this program for public review and comment.

Under section 103 on Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

BIL submitted to the FAA noise exposure maps, descriptions and other documentation (including the November 12, 1986, Addendum) which were

produced during an airport Noise Compatibility Study. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by BIL. The specific maps under consideration are Exhibits 7 and 8 in the submission. The FAA has determined that these maps for BIL are in compliance with applicable requirements. This determination is effective on December 22, 1986. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formerly received the noise compatibility program for BIL, also effective on December 22, 1986. Preliminary review of the submitted



material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before June 20, 1987.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration,  
Independence Avenue, SW., Room  
615, Washington, DC.

Federal Aviation Administration,  
Airports Division, ANM-600, 17900  
Pacific Hwy S., C-68966, Seattle,  
Washington 98168

Billings-Logan International Airport,  
Billings, Montana.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, December 22, 1986.

Edward G. Tatum,  
Manager, Airports, Division.

[FR Doc. 87-315 Filed 1-7-87; 8:45 am]

BILLING CODE 4910-13-M

### **Burbank-Glendale-Pasadena Airport, Burbank, CA; Environmental Impact Statement**

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

**ACTION:** Notice of intent.

**SUMMARY:** The FAA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for construction of a new replacement passenger terminal for the Burbank-Glendale-Pasadena Airport.

### **FOR FURTHER INFORMATION CONTACT:**

Herbert W. Hyatt, Environmental Protection Specialist, AWP-611.2, Federal Aviation Administration, Western Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, (213) 297-1534.

**SUPPLEMENTARY INFORMATION:** The FAA, in cooperation with the Burbank-Glendale-Pasadena Airport Authority, will prepare an Environmental Impact Statement (EIS) for a new replacement passenger terminal for the Burbank-Glendale-Pasadena Airport. This development involves construction of a new terminal and terminal support facilities. The following terminal and terminal support facilities will be evaluated in the EIS.

- Construction of a new 18-gate replacement terminal comprised of separate ticketing and departure concourse buildings
- Construction of a 1,500 foot long below-grade peplemover system to connect the two new terminal structures
- Demolition of the old terminal building
- Air traffic control tower replacement
- Construction of new aircraft parking aprons and taxiways
- Terminal area roadway improvements
- Airport ground access improvements
- Parking facilities, including a 4,000 car parking structure

Four alternatives will be evaluated in the EIS, a no project alternative which retains the existing terminal, plus three operational variants for construction of a new terminal. One option would retain operations at current 1986 levels, a second would retain operations at levels which would not exceed 1986 noise contours, and the third option would assume a reasonable forecast of passenger demand to the year 2000. Under the third alternative the noise contour is not a limiting factor and it is likely that the airport's noise impact area would increase.

In addition to noise impacts, the EIS is anticipated to address the issues of traffic and parking, displacement, air quality and energy, consistency with plans and policies, land use compatibility and growth inducement.

**Public Scoping Meeting:** To ensure that the full range of issues related to these proposed projects are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. To facilitate receipt of comments a public scoping meeting will be held on February 11, 1986, at 6:00 PM, at Luther Burbank Junior High School, 3700 Jeffries Avenue, Burbank, CA 91505.

Written Comments may be mailed to the informational contact listed above.

Issued in Hawthorne, California, on December 24, 1986.

Herman C. Bliss,

Manager, Airports Division FAA, Western-Pacific Region.

[FR Doc. 87-312 Filed 1-7-87; 8:45 am]

BILLING CODE 4910-13-M

### **Urban Mass Transportation Administration**

#### **Intent To Prepare an Alternatives Analysis/Environmental Impact Statement and To Conduct a Scoping Meeting on Alternative Transit Improvements in the Concord-Pittsburg-Antioch Region, California**

**AGENCY:** Urban Mass Transportation Administration, DOT.

**ACTION:** Notice to prepare an alternatives analysis environmental impact statement.

**SUMMARY:** The Urban Mass Transportation Administration (UMTA) and the Bay Area Rapid Transit District (BART) are undertaking the preparation of an Alternatives Analysis/Environmental Impact Statement (AA/EIS) for alternative transit improvements in the Pittsburg-Antioch Corridor in Contra Costa County, California. The AA/EIS is being prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321), the Council on Environmental Quality's implementing regulations (40 CFR Part 1500), the Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures (49 CFR Part 622) and related statutes and orders including Executive Order 11990 on the Protection of Wetlands and Executive Order 11988 on Flood-plain Management.

### **FOR FURTHER INFORMATION CONTACT:**

Mr. Stuart Eurman, Urban Mass Transportation Administration, 211 Main Street, Suite 1160, San Francisco, CA 94105; Telephone (415) 974-7543

or

Mr. Alan Lee, Project Manager, Bay Area Rapid Transit District, 800 Madison Street, Oakland, CA 94604-2688; Telephone (415) 464-6169

### **SUPPLEMENTARY INFORMATION:**

#### **Scoping Meeting**

A public scoping meeting will be held on Wednesday, January 28, 1987 at 7:30 p.m. in the Marina Community Center (340 Black Diamond Street, Pittsburg,

CA 94565) to facilitate receipt of comments. Public comments are being solicited to help establish the purpose, scope, framework, and approach for the analysis. At the scoping meeting, staff will present a description of the proposed scope of the study using maps and visual aids, as well as a plan for an active citizen involvement program, and a projected work schedule. Members of the public and interested Federal, State, and local agencies are invited to comment on the proposed scope of work, alternatives to be assessed, impacts to be analyzed, and evaluation criteria to be used to arrive at a decision. Comments may be made either orally at the meeting or in writing.

Comments at the scoping meeting should focus on the appropriateness of the alternatives for consideration in the study, not on individual preferences for a particular alternative as most desirable for implementation.

In order that comments may be considered in a timely fashion, correspondence should be received not later than 30 days after the scoping meeting. A more detailed description of the project and the alternatives will be available at the scoping meeting.

#### Corridor Description

The Concord-Pittsburg-Antioch Corridor is a major travel corridor which covers a distance of approximately 16 miles between the existing BART station in Concord and the City of Antioch. The alignment leaves northward for the existing Concord BART station along Port Chicago Highway to Highway 4, then eastward between Highway 4 and the Sante Fe Railroad right-of-way through Pittsburg to Antioch.

#### Alternative

Transportation alternatives proposed for consideration in the corridor are the following:

1. *No Build*, under which existing transit services would continue to operate;
2. *Transportation Systems Management (TSM)*, a low cost approach that would add additional local and express bus services;
3. *Busway/High Occupancy Vehicle (HOV)*, Special lanes that would provide an exclusive or semi-exclusive right-of-way for selected bus routes and high occupancy vehicles in the corridor;
4. *Light Rail Transit (LRT)*, a system that would be constructed at-grade wherever practical, typically within existing railroad or highway rights-of-way.
5. *BART*, an extension of the BART system, which would be constructed at-grade wherever practical, typically

within existing railroad or highway rights-of-way; and

6. *Combination of Busway/HOV, LRT and/or BART*, which would extend along the corridor from the existing Concord BART station toward Antioch.

The transit alternatives will be evaluated in different lengths with possible termini at either North Concord/Martinez or West Pittsburg or Antioch.

#### Probable Effects

Impacts proposed for analysis include a full range of environmental issues such as changes in the natural environment (air quality, noise, water quality, aesthetics), changes in the social environment (land use, development, neighborhoods), impacts on park lands and historic sites, changes in transit service and patronage, associated changes in highway congestion, capital costs, operating and maintenance costs, and financial implications. Impacts will be identified both for the short term construction period and for the long term operation of the alternatives.

The proposed evaluation criteria include transportation, environmental, social, economic and financing measures as required by current Federal (NEPA) and State (CEQA) environmental laws and current CEQ and UMTA guidelines. Mitigating measures will be explored for any adverse impacts that are identified.

Comments at the scoping meeting should focus on the completeness of the proposed sets of alternatives and the study process. Other impacts of criteria judged relevant to local decisionmaking should be identified.

Issued on: December 30, 1986.

**Brigid Hynes-Cherin,**  
Regional Administrator, UMTA Region IX.  
[FR Doc. 87-384 Filed 1-7-87; 8:45 am]

BILLING CODE 4910-57-M

#### DEPARTMENT OF THE TREASURY

##### Establishment of an Advisory Committee on Coinage, Medal and Currency Design

In accordance with the provision of the Federal Advisory Committee Act, Pub. L. 92-463, the Department of the Treasury announces the establishment of an Advisory Committee on Coinage, Medal and Currency Design.

The objective of the Committee is to advise the Secretary of the Treasury regarding selection of design proposals for use in coinage, medals and currency. The Committee will review design proposals submitted to it with regard to

aesthetics, appropriateness, quality and practical application.

In order to provide the Secretary with recommendations concerning submitted designs, the Committee will review presentations submitted either orally or in writing or both.

It has been determined that the establishment of this Committee is in the public interest.

**John F. W. Rogers,**  
Assistant Secretary of the Treasury  
(Management).

[FR Doc. 87-390 Filed 1-7-87; 8:45 am]

BILLING CODE 4810-25-M

#### Public Information Collection Requirements Submitted to OMB for Review.

Dated: December 31, 1986.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) 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 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

#### Internal Revenue Service

*OMB Number:* 1545-0169  
*Form Number:* IRS Forms 4461-A and 4461

*Type of Review:* Revision  
*Title:* Application for Approval of Master or Prototype Defined Benefit Plan (4461-A); and Application for Approval of Master or Prototype Defined Contribution Plan

*OMB Number:* 1545-0874  
*Form Number:* IRS Form 8328

*Type of Review:* Revision  
*Title:* Carryforward Election of Unused Private Activity Bond Limitations  
Clearance Officer: Garrick Shear.  
(202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

*OMB Reviewer:* Milo Sunderhauf.  
(202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

#### Bureau of Alcohol, Tobacco and Firearms

*OMB Number:* 1512-0192  
*Form Number:* ATF REC 5110/02 and ATF F 5110.11

*Type of Review:* Extension

*Title:* Distilled Spirits Plants

Warehousing Records and Reports

*OMB Number:* 1512-0205

*Form Number:* ATF REC 5110/01 and  
ATF F 5110.40

*Type of Review:* Extension

*Title:* Distilled Spirits Plants (DSP)

Production, Records and Reports

*OMB Number:* 1512-0206

*Form Number:* ATF REC 5110/08 and  
ATF F 5110.41

*Type of Review:* Extension

*Title:* Applications, Miscellaneous

Requests and Notices for Distilled  
Spirits Plants

*OMB Number:* 1512-0207

*Form Number:* ATF REC 5110/04 and  
ATF F 5110.43

*Type of Review:* Extension

*Title:* Distilled Spirits Plant (DSP)

Denaturation Records and Reports

Clearance Officer: Robert G.

Masarsky, (202) 566-7077, Bureau of  
Alcohol, Tobacco and Firearms, Room  
7202, Federal Building, 1200  
Pennsylvania Avenue, NW.,  
Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf,  
(202) 395-6880, Office of Management  
and Budget, Room 3208, New Executive  
Office Building, Washington, DC 20503.

Dale A. Morgan.

*Departmental Reports, Management Office.*  
[FR Doc. 87-389 Filed 1-7-87; 8:45 am]

BILLING CODE 4810-25-M

## UNITED STATES INFORMATION AGENCY

### University Affiliations Program: Applications for Fiscal Year 1987

**AGENCY:** United States Information  
Agency.

**ACTION:** Publish addendum to the  
University Affiliations.

*Program:* Application notice for fiscal  
year 1987 published in the **Federal  
Register** October 24, 1986.

USIA is amending the University  
Affiliations Program Application Notice  
for Fiscal Year 1987 (published in the  
**Federal Register**, Vol. 51, No. 206,  
Friday, October 24, 1986) to read as  
follows:

Eligibility . . . . Brazil: Fine Arts  
and/or Performing Arts (exchange  
activities should have an academic  
focus); Economics; Political Science;  
Communications; Education. All other  
application guidance remains the same.

Dated: December 30, 1986.

**Robert Schadler,**

*Acting Associate Director, Bureau of  
Educational and Cultural Affairs.*

[FR Doc. 87-342 Filed 1-7-87; 8:45 am]

BILLING CODE 8230-01-M

## VETERANS ADMINISTRATION

### Privacy Act of 1974; Amendment of Systems Notices Additional Routine Use Statements

Notice is hereby given that the VA  
(Veterans Administration) is considering  
revising two VA systems of records. The  
systems are entitled, "Loan Guaranty  
Fee Personnel and Program Participant  
Records—VA" (17VA26), and "Loan  
Guaranty Home, Condominium and  
Manufactured Home Loan Applicant  
Records, Specially Adapted Housing  
Applicant Records and Vendee Loan  
Applicant Records—VA" (55VA26), as  
set forth in the **Federal Register**  
publication entitled Privacy Act  
Issuances, 1984 comp., Volume V, pages  
707 and 734, respectively. System of  
Records 55VA26 is also amended at 51  
FR 24781 (July 8, 1986).

The system identified as 17VA26  
"Loan Guaranty Fee Personnel and  
Program Participant Records—VA,"  
includes a National Control List of  
suspended program participants and fee  
personnel. The existing system notice  
describes program participants as  
including property management brokers  
and agents, real estate sales brokers and  
agents, participating lenders, title  
companies, and manufactured home  
dealers, manufacturers and  
manufactured home park or subdivision  
owners. The proposed system notice  
would add that suspended employees of  
lenders are included in the National  
Control List. This addition results from a  
recent amendment to VA Regulations  
which provides for the suspension of  
lender employees and for the suspension  
of any participating lender who employs  
a suspended individual in a position  
where he or she would be responsible  
for processing or servicing VA-  
guaranteed loans. Lenders deciding  
whether or not to employ or continue  
employing an individual may contact  
VA in advance to determine whether the  
individual has previously been  
suspended from participation in the  
Loan Guaranty program. A new routine  
use number 11 will be added to 17VA26  
to authorize release of the names of  
suspended parties to program  
participants employing, contemplating  
hiring or doing business with such  
person or party. The routine use  
authorizes disclosure at the VA's

initiative or upon written or oral request  
from a program participant. Existing  
routine use number 5 is revised to  
authorize disclosure of suspended  
lender employees to other federal, state  
or local agencies in order that they may  
consider imposing similar sanctions.

Recent Congressional hearings  
demonstrated a heightened concern over  
the possible effects of poor appraisal  
practices on the losses experienced by  
the Government in Federally guaranteed  
and insured housing programs and in  
deposit insurance programs for banks  
and savings and loan associations.  
Efforts are currently underway to  
develop a procedure whereby Federal  
agencies suspending or taking other  
adverse action against fee appraisers  
would notify other agencies of such  
actions. It has always been the policy of  
the Veterans Administration, as  
evidenced by the current Routine Use  
Numbers 6 and 8, to communicate with  
other Governmental agencies and  
appropriate business and professional  
organizations concerning the  
performance history of fee personnel.  
Current Routine Use Numbers 6 and 8  
are now being combined into a new  
Routine Use No. 6. This new routine use  
provides for disclosure of the  
performance records of fee appraisers  
and compliance inspectors, including  
disciplinary actions, to Governmental  
agencies, businesses, and professional  
organizations. The new routine use  
employs more precise terminology as to  
specific adverse actions which may  
appear in the performance records.

The system notice for 17VA26 is also  
revised to note that these records  
include the social security numbers  
(SSN's) of the personnel and program  
participants. This information is  
necessary to make reports to the  
Internal Revenue Service on payments  
for services received. A new routine use  
number 8 is added to authorize release  
of identifying information and the  
amount paid for services received to the  
Department of the Treasury, Internal  
Revenue Service, where required by  
law. Under 26 U.S.C. 6041A and 6109,  
VA is required to report payments for  
services totaling \$600 or more in any  
calendar year to the Internal Revenue  
Service. A new routine use number 12 is  
added to authorize release of  
information to consumer reporting  
agencies in order that VA may obtain  
information about the relationships of  
prospective fee personnel, contractors  
and other program participants with  
other Government agencies. Other  
Government agencies would likewise be  
able to obtain, through credit reports,  
information on VA's experience with

such parties. This prescreening is required under the provisions of OMB Circular A-129, Managing Federal Credit Programs.

The system notice section on records storage is revised to note that the names of suspended program participants are also maintained on magnetic disks at Central Office as well as on paper documents and file cards.

The system notice for 55VA26, "Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records—VA" is being revised to include the addition of SSNs collected from applicants for GI loans, vendee loans and direct loans. Under Pub. L. 97-365, the Debt Collection Act of 1982, VA is required to collect the SSN from any person applying for a loan under the Loan Guaranty program. The Internal Revenue Service is authorized to cross-check these SSNs against delinquent taxpayer records and advise the Administrator of Veterans Affairs whether or not the applicant is a delinquent taxpayer, which could be a factor in determining whether or not to approve the loan. The disclosure of SSNs to the Internal Revenue Service will be made under current routine use number 27.

VA System of Records 55VA26 is being revised to provide on-line computer terminal access to these records through the VA telecommunications network. Video Display Terminals located in VA Central Office and VA Regional Offices will permit access to loan guaranty records maintained in automated data processing format at VA Data Processing Centers. VA personnel will be able to use this access to respond to various loan guaranty inquiries. Authorized employees at the regional office of jurisdiction over a case will have access to both read and change records. Authorized employees at other regional offices and Central Office will have read-only access. The system notice sections on "Retrievability" and "Safeguards" have been rewritten and expanded to describe the access and security features of automated records in this system.

Also in 55VA26, routine use statement number 16, is being revised to provide for additional disclosures on the sale of direct or vendee loans to investors. The proposed routine use will permit disclosure of any information in a direct or vendee loan account record to an investor contemplating purchase of the loan. The current routine use limits disclosure to the name and address of the obligors, the loan balance and the

interest rate, which enables the purchaser of the loan to establish the loan account. However, this information is not sufficient to enable prospective investors to fully evaluate the loan as a potential investment. This in turn may reduce the price a potential investor would be willing to bid at a loan sale. The new routine use will permit disclosure of information such as status of the loan, property condition, legal description of the property, loan application and credit reports to initial purchasers from VA and to subsequent investors.

Routine use number 26 in 55VA26 is being revised to provide for additional disclosures to consumer reporting agencies on delinquent loans made or guaranteed by the VA. The current routine use provides for disclosure only in cases where there is an indebtedness established on a defaulted guaranteed loan. The new routine use expands coverage to include loans made by the VA, as for example where VA financing is provided to the purchaser to a VA-acquired property. The new routine use also authorizes release of information on delinquencies as well as loans which have been terminated and an indebtedness established. These changes result from recent initiatives to improve the collection of debts owed to the United States, as provided in OMB Circular A-129. As in the current routine use, the disclosure will be made only in compliance with the provisions of 38 U.S.C. 3301(g)(4).

A new routine use number 29 is added to permit the disclosures required under the provisions of Pub. L. 98-369. The law requires VA, as a creditor, to report interest received from borrowers to the Internal Revenue Service. The law also requires VA, as a secured creditor, to report to the Internal Revenue Service any acquisition through foreclosure or abandonment of an interest in property which secures the borrower's indebtedness.

A new routine use number 30 is added to provide for disclosures made in the course of selling VA-acquired properties. This routine use authorizes disclosure of the loan number, property address, title limitations, repairs made, items still requiring repair and other information concerning the property. VA may also disclose the names of purchasers and their agents, price and terms of successful offers and reasons for selecting an offer over competing offers.

The VA has determined that release of information for these purposes is necessary and proper use of information in these systems of records and that

specific routine uses for transfer of this information are appropriate.

A "Report of Intention to Change VA Systems of Records" and an advance copy of the Amendment of Systems Notice have been provided to the Speaker of the House, the President of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, as required by the provisions of 5 U.S.C. 552a(o) and OMB Circular No. A-130, dated December 12, 1985.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to these systems of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before February 6, 1987 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until February 20, 1987. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the above address and room number.

If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the *Federal Register* by the Veterans Administration, the new routine use statements included herein are effective February 20, 1987.

Approved: December 22, 1986.

Thomas K. Turnage,  
Administrator.

#### Notice of System of Records

1. The system identified as 17VA26, "Loan Guaranty Fee Personnel and Program Participant Records—VA," as set forth on page 707 of the *Federal Register* publication entitled Privacy Act Issuances, 1984 comp., Volume V, is revised as follows:

#### 17VA26

##### SYSTEM NAME:

Loan Guaranty Fee Personnel and Program Participant Records VA.

\* \* \* \* \*

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will be covered by this

system: (1) Fee personnel who may be paid by the VA or by someone other than the VA (i.e., appraisers, compliance inspectors, management brokers, loan closing and fee attorneys who are not VA employees but are paid for actual case work performed), and (2) program participants (i.e., property management brokers and agents, real estate sales brokers and agents, participating lenders and their employees, title companies whose fees are paid by someone other than the VA, and manufactured home dealers, manufacturers, and manufactured home park or subdivision owners).

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) may include: (1) Applications by individuals to become VA-approved fee basis appraisers, compliance inspectors, fee attorneys, or management brokers. These applications include information concerning applicant's name, address, business phone numbers, social security number or taxpayer identification number, and professional qualifications; (2) applications by non-supervised lenders for approval to close guaranteed loans without the prior approval of VA (automatically); (3) applications by lenders supervised by Federal or State agencies for designation as supervised automatic lenders in order that they may close loans without the prior approval (automatically) of the VA; applications for automatic approval or designation (i.e., (2) and (3)) contain information concerning the corporate structure of the lender, professional qualifications of the lender's officers or employees, financial data such as profit and loss statements and balance sheets to insure the firm's financial integrity; (4) identifying information such as names, business names (if applicable), addresses, phone numbers and professional resumes of corporate officials or employees; (5) corporate structure information on prior approval lenders, participating real estate sales brokers or agents, developers, builders, investors, closing attorneys or other program participants as necessary to carry out the functions of the Loan Guaranty Program; (6) records of performance concerning appraisers, compliance inspectors, management brokers, or fee attorneys on both firms and individual employees; (7) records of performance including disciplinary proceedings, concerning program participants; e.g., lenders, investors, real estate brokers, builders, fee appraisers, compliance inspectors and developers both as to the firm and to individual employees maintained on an as-needed basis to carry out the

functions of the Loan Guaranty program; (8) National Control Lists which identify suspended real estate brokers and agents, lenders and their employees, investors, manufactured home dealers and manufacturers, and builders or developers; and (9) a master record of the National Control List (i.e., Master Control List) which includes information regarding parties previously suspended but currently reinstated to participation in the Loan Guaranty program in addition to all parties currently suspended.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

5. Identifying information and the reasons for the suspension of builders, developers, lenders, lender employees, real estate sales brokers or agents, manufactured home dealers, manufacturers, or other program participants suspended from participation in the Loan Guaranty Program may be disclosed to the Department of Housing and Urban Development (HUD), and the Federal Housing Administration (FHA), United States Department of Agriculture (USDA), Farmers Home Administration (FmHA) or other Federal, State or local agencies to enable that agency to consider imposing similar restrictions on these suspended persons and/or firms.

6. Identifying information and the performance records of qualified fee appraisers and compliance inspectors, including any information regarding their termination, non-redesignation, temporary suspension or resignation from participation in the Loan Guaranty Program, including the records of any disciplinary proceedings, may be disclosed to Federal, State, local or non-governmental agencies, businesses, and professional organizations, to permit these entities to employ, continue to employ or contract for the services of qualified fee personnel, monitor the performance of such personnel, and take any appropriate disciplinary action.

8. Identifying information and information concerning amounts paid to contractors, fee personnel and other program participants may be released to the Department of the Treasury, Internal Revenue Service, where required by law.

11. Identifying information and the reasons for suspension of individuals and/or firms suspended from the VA Loan Guaranty Program may be

disclosed to other participants in the Loan Guaranty Program in order that they may decide whether or not to employ, or continue to employ or contract with a suspended individual or firm.

12. Identifying information and information concerning the performance of contractors, fee personnel and other program participants may be released to consumer reporting agencies in order that the VA may obtain information on their prior dealings with other Government agencies and so that other Government agencies may have the benefit of VA's experience with such parties.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

Records on fee personnel and program participants are kept on paper documents and maintained in file folders. The National Control List of suspended program participants is also maintained on magnetic disk at Central Office.

2. The system identified as 55VA26, "Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records-VA," as set forth on page 734 of the Federal Register publication entitled Privacy Act Issuances, 1984 comp., Volume V, as amended at 51 FR 24781 (July 8, 1986), is revised as follows:

#### 55VA26

##### SYSTEM NAME:

Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records-VA.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) may include the following: (1) Military service information from a veteran's discharge certificate (DD Form 214, 215) which specifies name, service number, date of birth, rank, period of service, length of service, branch of service, pay grade, and other information relating to a veteran's military service (e.g., character of service, assigned separation reason code, whether a veteran is out of the service); (2) medical records containing specific information regarding a veteran's physical disability (e.g.,

blindness, paraplegic condition, loss of limbs) which is used to determine eligibility and need for specially adapted housing. Adjudication records relating to: (a) Medical determinations by the VA that a veteran is eligible and needs specially adapted housing; or (b) VA determinations on whether a veteran who has received an other than honorable discharge should be eligible for VA credit assistance benefits; (3) applications for certificates of eligibility (these applications generally contain information from a veteran's military service records except for character of discharge); (4) applications for FHA veterans' low-downpayment loans (these applications generally contain information from a veteran's military service records including whether or not a veteran is in the service); (5) applications for a guaranteed or direct loan, applications for release of liability, applications for substitutions of VA entitlement and applications for specially adapted housing (these applications generally contain information relating to employment, income, credit, personal data; e.g., social security number, marital status, number and identity of dependents; assets and liabilities at financial institutions, profitability data concerning business of self-employed individuals, information relating to an individual veteran's loan account and payment history on a VA-guaranteed, direct, or vendee loan on an acquired property, medical information when specially adapted housing is sought, and information regarding whether a veteran owes a debt to the United States and may be accompanied by other supporting documents which contain the above information); (6) applications for the purchase of a VA-acquired property (e.g., vendee loans—these applications generally contain personal and business information on a prospective purchaser such as social security number, credit, income, employment history, payment history, business references, personal information and other financial obligations and may be accompanied by other supporting documents which contain the above information); (7) loan instruments including deeds, notes, installment sales contracts, and mortgages; (8) property management information; e.g., condition and value of property, inspection reports, certificates of reasonable value, correspondence and other information regarding the condition of the property (occupied, vandalized), and a legal description of the property; (9) information regarding VA loan servicing activities regarding default, repossession and foreclosure

procedures, assumability of loans, payment of taxes and insurance, filing of judgments (liens) with State or local authorities and other related matters in connection with active and/or foreclosed loans; and (10) information regarding the status of a loan (i.e., approved, pending or rejected by the VA).

\* \* \* \* \*

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

\* \* \* \* \*

16. Any information in a direct or vendee loan account record may be disclosed to active investors purchasing or considering the purchase of VA direct or vendee loans from VA or from a previous investor. Such information will be furnished to active prospective investors to provide a basis for their submitting an offer to purchase loans and to actual investors in order that they may establish loan accounts on purchased loans.

\* \* \* \* \*

26. The name and address of an obligor, other information as is reasonably necessary to identify such person, including personal information obtained from other Federal agencies through computer matching programs, and any information concerning such person's delinquency or default on a loan made or guaranteed by the VA may be disclosed to a consumer reporting agency for purposes of reporting delinquencies, defaults and indebtedness and assisting in the collection of indebtedness, provided that the provisions of 38 U.S.C. 3301(g)(4) have been met.

\* \* \* \* \*

29. Any information in the system may be disclosed to the Department of the Treasury, Internal Revenue Service, where required by law, including the borrower's name, address, social security or taxpayer identification number, amount of interest paid, and information relating to any abandonment or foreclosure of a property.

30. Any information on a property which has been acquired by VA such as loan number, property address, property survey, title limitations/policy, termite inspections, existing warranties, repairs made by VA and items still requiring repair, and dues payable to and services provided by homeowner or condominium associations may be disclosed to prospective purchasers and their representatives in order to assist VA in the timely disposal of its acquired properties. Such information may

include the name of the purchaser and purchaser's sales agent, price and terms of the successful offeror's offer, along with the reason(s) for selecting such offer over any other competing offer.

\* \* \* \* \*

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

VA-guaranteed, insured, direct and vendee loan records are maintained in individual folders on paper documents and on automated storage media (e.g., microfilm, microfiche, magnetic tape and magnetic disks.)

**RETRIEVABILITY:**

All VA loan applications and loan records are indexed by name and VA loan file number in the local VA office having jurisdiction over the geographic area in which the property is located. Automated records are indexed for statistical purposes by a file number, field station and county code number and lender identification number. However, an individual loan record in automated format may only be retrieved by name or loan number.

**SAFEGUARDS:**

Access to VA working spaces and records file storage areas is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service or other security personnel. Loan and property security instruments are stored in separate fire resistant locked files. VA employee loan file records and other files which, in the opinion of VA, are, or may become, sensitive are stored in separate locked files.

Information in the system may be accessed from authorized terminals in the VA telecommunications network. Terminal locations include VA Central Office and regional offices. Access to terminals is by authorization controlled by the site security officer. The security officer is assigned responsibility for privacy-security measures, especially for review of violations logs, information logs and control of password and badge distribution. Terminal equipment is protected by key locks, magnetic badge readers and audible alarms. Electronic keyboard locks are activated on security errors. Also, beginning in 1986, sensitive files will be established using the social security numbers of the VA Department of Veterans Benefits employees and other prominent individuals to prevent

indiscriminate access to their automated records.

At the data processing centers, identification of magnetic tape and disks containing data is rigidly enforced using labeling techniques. Automated storage media which are not in use are stored in tape libraries which are secured in

locked rooms. Access to programs is controlled at three levels: Programming, auditing and operations. Access to data processing centers is generally restricted to center employees, custodial personnel, Federal Protective Service and other security personnel. Access to computer rooms is restricted to

authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted.

\* \* \* \* \*  
[FR Doc. 87-361 Filed 1-7-87; 8:45 am]  
BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register

Vol. 52, No. 5

Thursday, January 8, 1987

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).

## FEDERAL ELECTION COMMISSION

**DATE AND TIME:** Tuesday, January 13, 1987, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

### ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration Internal personnel rules and procedures or matters affecting a particular employee

\* \* \* \* \*

**DATE AND TIME:** Thursday, January 15, 1987, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC (Ninth Floor).

**STATUS:** This meeting will be open to the public.

### MATTERS TO BE CONSIDERED:

Setting of dates of future meetings  
Correction and approval of minutes  
Draft Advisory Opinion 1986-43—Laurence A. Tuttle  
Draft Notice: Public hearing on bank loans to candidates and political committees  
Routine and political committees  
Routine administrative matters

**PERSON TO CONTACT INFORMATION:** Mr. Fred Eiland, Information Officer, 202-376-3155.

Marjorie W. Emmons,  
*Secretary of the Commission.*

[FR Doc. 87-410 Filed 1-6-87; 10:49 am]

BILLING CODE 6715-01-M

## FEDERAL MARITIME COMMISSION

**TIME AND DATE:** 10:00 a.m., January 14, 1987.

**PLACE:** Hearing Room One, 1100 L Street, NW., Washington, DC 20573.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Agreement No. 202-006200-028—Modification to U.S. Atlantic & Gulf/Australia—New Zealand Conference—Compliance With Section 1888 of the Tax Reform Act of 1986.
2. Special Docket No. 1395—Application of Transpacific Westbound Rate Agreement and Sea-Land Corporation on Behalf of Sea-Land Service, Inc. for the Benefit of Darrell J. Sekin & Co., Inc. As Agent for Bruce International Corporation—Review of Supplemental Initial Decision.

### CONTACT PERSON FOR MORE

**INFORMATION:** Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,

*Secretary.*

[FR Doc. 87-423 Filed 1-6-87; 12:13 pm]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

**TIME AND DATE:** 10:00 a.m., Wednesday, January 14, 1987.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

### CONTACT PERSON FOR MORE

**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning

at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 6, 1987.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 87-482 Filed 1-6-87; 3:59 pm]

BILLING CODE 6210-01-M

## STATE JUSTICE INSTITUTE

### TIME AND DATE:

1:00-5:00 p.m.—January 15, 1987

9:00-5:00 p.m.—January 16, 1987

**PLACE:** Dolly Madison House, Federal Judicial Center 1520 H. Street, NW., Clark Conference Room.

**STATUS:** The meeting will be closed on January 15, 1987 and portions of January 16, 1987 to discuss matters exempted from public disclosure pursuant to subsection (c) of sec. J52b of Title V, U.S.C.). Persons who plan to attend the meeting should notify and State Justice Institute so that they can be cleared for admittance to the Federal Judicial Center.

### MATTERS TO BE CONSIDERED:

#### Portions Open to the Public:

Discussion of the FY 1988 budget and the reauthorization process.

#### Portions Closed to the Public:

Discussion of personnel policies and other internal procedures of the agency.

### CONTACT PERSON FOR MORE

**INFORMATION:** John B. Pickett, telephone 202-628-0001, Acting Executive Director, State Justice Institute, 500 Indiana Avenue, NW., Washington, DC 20001.

John B. Pickett,

*Acting Executive Director.*

[FR Doc. 87-406 Filed 1-6-87; 10:19 am]

BILLING CODE 6820-SC-M



# Corrections

Federal Register

Vol. 52, No. 5

Thursday, January 8, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51654; FRL 3133-5]

### Certain Chemicals Premanufacture Notices

#### Correction

In notice document 86-28898 beginning on page 46716 in the issue of Wednesday, December 24, 1986, make the following corrections:

1. On page 46717 in the first column under "P 87-311", in the seventh line,

"> g/kg;" should read ">5 g/kg;".

2. On the same page, in the second column, under "P 87-313", in the fifth line, "> g/kg;" should read ">5 g/kg;".

3. On the same page, in the third column, under "P 87-324", in the last line "< 33/kg." should read "> 33/kg.".

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

[OPTS-42092; FRL-3134-9]

### Testing Consent Agreement Development for Alkyl Phthalates; Solicitation for Interested Parties

#### Correction

In notice document 86-29012 appearing on page 46718 in the issue of Wednesday, December 24, 1986, make the following corrections:

1. In the first column, under **ADDRESS**, in the fourth line, "42-92" should read "42092".

2. In the second column, in the first paragraph under **III.**, in the fourth line, "alkyl" was misspelled.

BILLING CODE 1505-01-D

## PENSION BENEFIT GUARANTY CORPORATION

### Multiemployer Pension Plans; Withdrawal Liability in Plans Without Unfunded Vested Benefits

#### Correction

In notice document 86-29310 beginning on page 47342 in the issue of Wednesday, December 31, 1986, make the following correction:

On page 47343, in the second column, in the second complete paragraph, in the fourth line, "not" should read "now".

BILLING CODE 1505-01-D

Faint, illegible text covering the majority of the page, appearing to be bleed-through from the reverse side.

# **Register Federal Register**

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Thursday  
January 8, 1987

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**Part II**

**Department of  
Health and Human  
Services**

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**Public Health Service**

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**42 CFR Part 60  
Health Education Assistance Loan  
Program; Final Regulation**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Public Health Service

## 42 CFR Part 60

## Health Education Assistance Loan Program

AGENCY: Public Health Service, HHS.

ACTION: Final regulation.

**SUMMARY:** This rule amends existing regulations governing the Health Education Assistance Loan (HEAL) program, authorized by the Public Health Service Act (the Act). These revisions will improve the procedures at schools and lending institutions for making, servicing, and collecting HEAL loans and clarify the rights and responsibilities of lenders, schools, borrowers, and the Federal Government.

**EFFECTIVE DATE:** These regulations are effective April 8, 1987.

**FOR FURTHER INFORMATION CONTACT:** Ms. Peggy Washburn, Chief, Program Development Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration; telephone: 301 443-4540.

**SUPPLEMENTARY INFORMATION:** On May 21, 1986, the Secretary published a Notice of Proposed Rulemaking (NPRM) to revise existing regulations governing the HEAL program. More than 120 written comments were received which were postmarked on or before July 21, the end of the comment period. The Secretary would like to thank the respondents for the quality and thoroughness of their comments. As a result of the comments received, many of the changes proposed have been modified. The comments and the Department's response to the comments are discussed below. For clarity, the comments and responses are arranged according to the section numbers and titles of the NPRM to which they pertain.

*Section 60.1 What is the HEAL program?*

Fourteen respondents, including schools, lenders and associations, supported the proposal to revise § 60.1(c) to indicate that the Secretary will report HEAL loan defaulters to consumer credit reporting agencies and, where appropriate, to the Internal Revenue Service or to the Department of Justice for litigation when pursuing collections on loans assigned to the United States. Several respondents objected to the inclusion of the administrative policies with which the lender must comply as a condition for

the payment of insurance claims. They argued that this provision would circumvent the requirements of the Administrative Procedures Act (APA) that all rules of general applicability must be published as regulations and must be subjected to public comment before publication as regulations. Due to this concern, the provision has been clarified by substituting compliance with the lender's insurance contract for the reference to administrative policies.

Six respondents supported the amendment to § 60.1(d), which adds a general penalty warning statement concerning possible consequences of illegal actions. The Department has accordingly retained this provision as proposed.

*Section 60.5 Who is an eligible student borrower?*

Forty-five respondents opposed § 60.5(g), which would amend the regulations to reflect the language in section 731(a)(1)(A) of the Act regarding costs that may be covered by a HEAL loan. Most respondents agreed with the concept that HEAL loans must be used only for educational expenses, but objected to the proposed regulatory language describing allowable costs.

The greatest concern dealt with the deletion of transportation as a specifically mentioned allowable cost, and resulting confusion as to whether this was an allowable budget item. Although respondents agreed that HEAL funds should not be used for purchasing new vehicles or paying for vacation trips, they noted that transportation is a necessary part of the student budget, especially for health professions students, who often must do clinical training at locations other than the school and must have transportation available at odd hours to complete their clinical training. To avoid misunderstandings about transportation as an allowable expense, it was suggested that the Department specifically reference "reasonable transportation expenses" as an allowable cost.

In response to these comments, the Department notes that necessary transportation costs were intended to be included as part of the student's reasonable educational and living expenses. To clarify this provision, the Department has modified this section to state that HEAL funds may be used for reasonable transportation costs, but only to the extent that they are directly related to the borrower's education.

Respondents were also concerned about the deletion of room and board, supplies and equipment, and personal expenses. Some schools commented that

the intent of the deletions was unclear because these items were considered reasonable and necessary costs of attendance, with the exception of personal expenses, which most respondents agreed could appropriately be excluded. Numerous respondents indicated that financial aid administrators are in the best position to determine what constitutes "reasonable educational expenses" for their students, and that the determination of specific budget items should be the school's responsibility. Other respondents requested that the Department clarify what was meant by "other reasonable educational expenses" and "reasonable living expenses." It was also suggested that the Department adopt the cost-of-attendance language in the Guaranteed Student Loan (GSL) regulations, which is more explicit regarding allowable costs.

To alleviate the confusion caused by this proposal, the Department has further revised this provision to clarify that supplies and equipment are allowable costs for funding by the HEAL program. The Department has made no change regarding room and board, since these are a part of "reasonable living expenses." Further, to provide financial aid administrators with necessary flexibility, the Department has retained the general language which allows HEAL funds to cover reasonable educational and living expenses.

Several respondents were opposed to the deletion of interest on HEAL loans as an allowable expense, stating that students should have the option of borrowing HEAL funds to pay HEAL interest. The Department's interpretation of section 731(a)(1)(B) of the Act as permitting HEAL loans for the payment of interest on HEAL loans for nonstudents who received HEAL loans before August 13, 1981, was also questioned. The Secretary remains convinced that the Department's interpretation is legally correct, and the provision has been retained as proposed.

Respondents also suggested that the Department use program reviews and audits to verify proper use of funds and resolve any misinterpretations of this provision, and require an applicant to sign a "statement of educational purpose" indicating that funds will be used only for costs of education.

The Department will continue to monitor proper use of HEAL funds through program reviews and audits, and will propose other changes to this provision if abuses are found. Since the application now contains a certification

that funds will be used only for educational costs, an additional statement of educational purpose is not necessary.

Thirteen respondents opposed § 60.5(h), which states that, to be eligible for HEAL funds, a student must require the loan to pursue the course of study at the school. It also proposed that the school determine the maximum amount of the loan by applying the considerations of § 60.51(f), which proposed to require the use of a need analysis system in determining HEAL eligibility. While there was some agreement with the need for tighter controls to prevent overborrowing, most respondents felt that the HEAL program should not be need-based, and some questioned whether this proposal was in keeping with the Congressional intent for the HEAL program. Several stated that the HEAL program is only used as a last resort and should not be restricted further. It was also indicated that this requirement would delay processing and increase costs to the student.

Respondents were also concerned about how an independent student would be treated under this provision. They believed that this provision would penalize many students who need HEAL funds due to the absence of parental or spousal contributions. These respondents explained that there is often a difference between the "calculated need," as shown on the need analysis, and the "actual need," which takes into account other factors which affect the resources actually available to the student. Because of these differences, they felt that financial aid administrators need discretion in the use of the need analysis. Otherwise, many students could be denied a health professions education because of their inability to obtain necessary funding.

One respondent suggested that the Department study the impact of a needs test on the distribution of HEAL loans before making a final decision on this provision. Another questioned the effectiveness of this provision in minimizing default under the HEAL program, and suggested that the Department enforce standard student budgets to minimize HEAL borrowing and retain the current system of limiting the amount of a HEAL loan to the difference between the student budget and other financial aid.

In response to these comments, the Department clarifies that this provision is designed to strengthen the financial aid administrator's ability to limit the amount of a HEAL loan to the student's actual need, and is not meant to prevent a student from obtaining funds necessary to complete his or her health

professions education. Since the concerns raised in these comments are directed primarily to the language contained in § 60.51(f), the Department has made no change in § 60.5(h). However, to eliminate the confusion caused by the requirement to use a need analysis system as a tool for determining the amount of HEAL funds a student needs, the Department has revised § 60.51(f), as indicated in the discussion on that section.

*Section 60.7 The loan application process.*

Respondents supported the proposed requirement in § 60.7(a)(2) that the student applicant must be informed of the Federal debt collection policies and procedures in accordance with the Department's Claims Collection Regulation (45 CFR Part 30) prior to the student receiving the loan. Further, the applicant must sign a certification statement attesting that the applicant has been notified of the actions the Federal Government can take in the event that the applicant fails to meet the scheduled payments. This signed statement will be forwarded by the school to the lender and maintained by the lender as part of the borrower's official record. Several respondents interpreted the proposal as referring to a separate piece of paper and suggested that the certification statement be included on either the application, the promissory note, or both.

The Department intends that the certification be included on existing forms to the extent possible, rather than as a separate form. Since the proposal to require the school to forward the signed statement to the lender was misinterpreted, it has been deleted in the final regulations and the school and the lender are now required to maintain this certification as a part of the borrower's official record.

Thirty-four respondents opposed § 60.7(a)(3)(iii) as proposed, which would require the school to complete a portion of the student's HEAL application providing information on all financial assets of the applicant, including any student aid, familial, spousal, or personal income, or other financial assistance of which the school or the applicant is aware that would legally or contractually be available to the applicant or that the applicant has received or will receive during the period covered by the proposed HEAL loan. Most respondents did not understand what was meant by "all financial assets . . . legally or contractually . . . available," and requested that this language be clarified or deleted. As with § 60.5(h), there was

concern that this provision would preclude borrowers from using HEAL funds to fill gaps in their resources that existed because the calculated need, as reflected on the need analysis form, differed from the actual need.

Respondents also objected to what was perceived as a requirement to calculate a parental contribution for all students. It was believed that a parental contribution should not be required for independent students, and that its inclusion as an available resource for other students should be at the discretion of the financial aid administrator, based on all information available regarding the borrower's financial situation. Respondents also suggested that the Department eliminate the requirement to list all financial assets, since this would duplicate information already considered as part of the need analysis. Respondents said that the Department should consider using the GSL need analysis procedures, including the GSL needs test tables, adapted to allow for family incomes above \$75,000.

In response to these comments, the Department clarifies that this provision was not meant to exclude from the HEAL program any eligible applicants who have a legitimate need for HEAL funds. Rather, this language was intended to assist schools in identifying and denying HEAL loans to those applicants who have sufficient resources without a HEAL loan. Due to misunderstandings created by the proposed language, the Department has revised this provision to require that the school complete a portion of the application providing information on the total amount of the financial resources that are available to the applicant for his or her costs of education for the period covered by the proposed HEAL loan, as determined in accordance with § 60.51(f), and other student aid that the applicant has received or will receive during the period covered by the proposed HEAL loan. Respondents' concerns regarding the treatment of parental contribution and the intended use of the need analysis information are addressed below in § 60.51(f).

Eight respondents opposed § 60.7(a)(4), which would require the student applicant to certify on the application that the information provided reflects the applicant's total assets and indebtedness and that the applicant has no other financial resources legally or contractually available for the period covered by the proposed HEAL loan. As with § 60.7(a)(3)(iii), respondents requested clarification or deletion of the phrase

"legally or contractually available," and suggested that the financial information which the student certifies as accurate should reflect the actual financial resources available to the student to pay for his or her cost of education. Some respondents considered this redundant since the need analysis form includes a similar certification. Respondents who agreed in concept with this proposal suggested that the HEAL application be redesigned to include this as part of the existing certification language above the student's signature, rather than as a separate item.

In response to these comments, the Department clarifies that the intent of § 60.7(a)(4) was to assure that the information on the HEAL application accurately reflects the total amount of the financial resources available to the student to pay for his or her education, thereby preventing each student from borrowing more HEAL funds than is needed. The Department does not consider this certification duplicative of the need analysis certification, since the information on the need analysis may be adjusted by the financial aid administrator to more accurately reflect the student's actual resources. Thus, this certification would attest to the accuracy of any adjustments made to the student's resources, as indicated on the need analysis document. Due to the confusion caused by the proposed language, however, the Department has deleted the words "legally or contractually" and has changed the word "assets" to "financial resources".

Respondents generally supported the proposed requirement in § 60.7(c)(2) that the nonstudent applicant must be informed of the Federal debt collection policies and procedures in accordance with the Department's Claims Collection Regulation (45 CFR Part 30) prior to the nonstudent receiving the loan. The applicant must sign a certification statement attesting that the applicant has been notified of the actions the Federal Government can take in the event that the applicant fails to meet the scheduled payments. This signed statement will be maintained by the lender as part of the borrower's official record. One response indicated that nonstudents were no longer eligible to receive HEAL loans.

The Department clarifies that any student who received a HEAL loan prior to August 13, 1981, for which he or she is required to make payments of interest, but not principal, during the period for which the new loan is intended and who meets other requirements in § 60.6, remains eligible to become a nonstudent

borrower. Accordingly, the Department has retained this provision as proposed.

Five responses were received regarding the proposal in § 60.7(c)(5) to require the nonstudent applicant to certify on the application that the information provided reflects the applicant's total assets and indebtedness. Again, there was confusion in that three of the respondents believed that nonstudents are no longer eligible for HEAL loans.

The eligibility of nonstudents to receive HEAL loans has been discussed previously. The Department has retained this provision, but has changed the word "assets" to "financial resources."

#### *Section 60.8 What are the borrower's major rights and responsibilities?*

Respondents supported § 60.8(a)(3), which proposed to require a lender to disburse loan proceeds as described in § 60.33(f). Therefore, the Department has retained this provision as proposed.

Respondents supported the requirement in § 60.8(a)(5) that the holder must notify the borrower if the loan is sold from one lender to another lender, or if the loan is serviced by a party other than the lender. However, three responses from lenders expressed concern that the proposed 15-day period for the notification was too restrictive, and suggested that 30 days is a more realistic requirement. The Department agrees that 30 days is reasonable and has modified this provision accordingly.

Three respondents opposed § 60.8(a)(11), which proposed that the lender may grant the borrower forbearance, but that the lender *must* grant forbearance for circumstances described in § 60.37. These respondents stated that the statute does not specifically authorize mandatory forbearance.

The Department has retained this provision as proposed. Since forbearance may prevent a borrower from defaulting on his or her loan because of temporary financial hardships, requiring forbearance in certain situations is consistent with the Department's goal of preventing defaults in the HEAL program. Although the statute does not expressly state this requirement, it is consistent with the legislation which requires the lender to make a substantial effort in the collection of loans.

Six responses were received on § 60.8(b)(3), which proposed to require that the borrower notify the lender in writing in the event of changes in name, address, or status. Most commenters were opposed to requiring the notification in writing and lenders

expressed uncertainty as to whether this requirement would prohibit them from acting on telephone contacts. One school commented that notification through written correspondence protects the borrower and assists lenders in maintaining formal lines of communication and may possibly avert some defaults.

While the Department believes that written communication is preferable to other methods and has retained this provision as proposed, we do not interpret this language as prohibiting a lender from acting on other than written communication from the borrower if the lender believes the notification is legitimate.

Respondents supported the proposal in § 60.8(b)(5) to clarify the 5-year prohibition against the discharge of a HEAL loan in bankruptcy contained in section 733(g) of the Act. Accordingly, the Department has retained this provision as proposed.

#### *Section 60.10 How much can be borrowed?*

Eighty-six respondents opposed § 60.10(a), which proposed that a student be allowed to borrow an amount for expenses to be incurred only over a period of up to 6 months. Respondents objected to the 6-month maximum loan period because it would force most borrowers to submit two applications for each academic year and thus would double the workload for borrowers, schools, lenders, and the Federal Government and create delays in the delivery of HEAL funds. A maximum 6-month award period was also opposed because it would be difficult to coordinate with the standard student budget, the need analysis process, and other sources of financial aid, all of which are based on the full academic year, and thus would increase the likelihood of errors and total loan amounts which exceed the borrower's need or the statutory maximum. There was also concern that, under this system, students could unexpectedly find themselves without necessary funding late in the academic year if the total HEAL funds available in a particular fiscal year were not sufficient to meet the demand.

Respondents generally felt that the intent of this provision, which was to help the borrower manage HEAL funds more effectively and prevent unnecessary accrual of interest, could be achieved without imposing the administrative burden associated with processing two applications per year. The majority of respondents suggested that, rather than limiting the loan period

to a maximum of 6 months, the Department should allow one application per academic year, but require multiple disbursements of HEAL funds, similar to the procedure followed for the GSL program. Under a system of multiple disbursements, respondents suggested that the school be required to verify the borrower's continued eligibility, including enrollment, good standing, and need for HEAL funds, before making the second disbursement. It was also requested that, if the requirement for multiple disbursements replaced a 6-month award period, the financial aid administrator be given the authority to determine the amount of each disbursement, and to make the disbursements unequal if necessary for the student to meet his or her required educational costs. Respondents also suggested a variety of options regarding the timing of the second disbursement—e.g., at least 90 days after the first, at the midpoint of the loan period, not prior to completion of one-third of the loan period, at the time a tuition payment is due, or at the beginning of each enrollment period (quarter, semester, or trimester). There were various suggestions for the specific procedures to follow to implement multiple disbursements, such as having the school certify on the application the amount and date for each disbursement, and requiring a separate promissory note for each disbursement. It was also requested that the Department clarify in the regulations that interest on the second or subsequent disbursements would not begin to accrue until the check was actually disbursed.

As an alternative to multiple disbursements, a few respondents suggested that multiple applications be encouraged but not required, with the student determining the amount of funds requested in each application, or that schools be allowed to determine the amount of the award period, not to exceed an academic year.

In response to these comments, the Department has revised this provision to allow an eligible student to borrow an amount for expenses to be incurred over a period of up to an academic year, but to require that these funds be disbursed in accordance with § 60.33(f). Section 60.33(f), which addresses disbursement of HEAL funds, has been revised to require that, if the borrower applies for funds to cover more than one-half of an academic year, the funds must be disbursed to the student in at least two installments. In this case, the school must determine (in conjunction with the borrower, as appropriate) and indicate on the HEAL application the amount

and approximate date of disbursement for each installment. The amount of each installment may not exceed the student's need for the academic term(s) which it covers. The school must verify the borrower's continued eligibility and make any adjustments, including returning unneeded funds to the lender, prior to disbursing any HEAL funds to the student.

In accordance with § 60.13(b) of the existing regulations, interest on each installment begins to accrue on the date the installment is disbursed. The Department has not established more specific restrictions regarding the amount and timing of each installment to afford the lender, school, and borrower flexibility in these areas. However, because of the necessary administrative changes involved in the implementation of multiple disbursements of HEAL loans, the required modifications to the data processing systems at the lenders and schools, and the timing of these final regulations, the Department has established an effective date of July 1, 1987, for implementation of this provision. This effective date would coincide with the beginning of a new academic period for most schools. Additionally, the Department will monitor this provision and may propose further restrictions if the provision as written does not adequately limit borrowing to when it is needed.

#### *Section 60.11 Terms of repayment.*

Fourteen of 22 respondents supported proposed § 60.11(e), which would require that a borrower contact the holder of the loan 30 to 60 days prior to the commencement of the repayment period to establish the precise terms of repayment, that repayments must be made on a monthly basis, and that the holder may establish a repayment schedule with substantially equal payments if the borrower does not contact the holder and does not respond to contacts from the holder.

Most respondents agreed that the borrower should be required to contact the holder 30 to 60 days prior to the commencement of the repayment period to establish the terms of repayment. However, a few respondents felt that this requirement conflicted with § 60.34(b), which requires the holder to contact the borrower during this same time period to establish the terms of repayment, and suggested instead that the borrower be required to contact the holder within 30 days of graduation. One respondent requested clarification in the regulations regarding the consequences if the borrower failed to

make this contact, e.g., whether this would be considered a basis for default.

The Department clarifies that the borrower's failure to make this contact could not be the basis for default, as defined in § 60.40(c)(1). Further, the proposed regulatory language explained that if the borrower fails to make this contact or respond to the holder's contact, the holder may establish a repayment schedule with substantially equal payment amounts. The Department also notes that § 60.8(b) of the existing regulations already requires the borrower to notify the holder when he or she graduates. This proposal would amend a provision which required the borrower to contact the holder during the grace period, and is designed to assist the borrower and the holder by requiring this contact to coincide more closely with the beginning of the repayment period. Therefore, this provision has been retained as proposed.

Although most respondents agreed that requiring monthly payments is desirable for the HEAL program, two respondents felt that the holder should have the option of establishing less frequent payments to permit individual money management planning and to accommodate cash flow and billing patterns for borrowers who have begun to practice. The Department recognizes that there may be some instances where a borrower could handle less frequent payments without difficulty. However, because the majority of HEAL borrowers are best served by monthly payments, and to help prevent default in cases where a borrower finds after the fact that he or she could not handle less frequent payments, the Department is retaining the requirement for monthly payments as proposed.

Respondents also commented on the borrower's option of selecting an equal or graduated repayment plan, with several suggesting that the Department allow the borrower to request a change in his or her schedule, from fixed to graduated or vice versa, according to what best suited any change in the borrower's circumstances. One requested that the Department clarify that if the borrower failed to request a graduated repayment schedule at the beginning of the repayment period, he or she waived the right to a graduated schedule in the future unless the holder agrees. Clarification of whether a holder must offer more than one graduated plan was also requested. Finally, there was a suggestion that the holder be required to notify the borrower of the graduated repayment option prior to the establishment of the repayment

schedule, with a comparison of the total approximate costs of each plan.

In response to these comments, the Department clarifies that, in accordance with standard lending practices, once the borrower has selected his or her repayment plan (or the plan has been established by the holder if the borrower fails to respond to the holder's contacts), any change from equal to graduated payments or vice versa would have to be agreed to by both the borrower and the holder. The Department also notes that the holder is already required, under existing regulations, to provide the borrower with the option of a graduated repayment plan, but is not required to offer more than one graduated plan. The Department believes the existing regulatory language adequately addresses the option of providing a graduated plan, and therefore no change in this provision of § 60.11(e) has been made.

Section § 60.11(e) as proposed also includes a provision that, if a graduated repayment schedule is established, it may not provide for any single installment that is more than 5 times greater than any other installment. One commenter observed that the effect of this provision is to make it more difficult for a lender to tailor a repayment agreement to the individual circumstances of each borrower. At the beginning of the repayment period most borrowers are earning substantially less than they will probably be earning in 5 or 10 years. Given the normal pattern of gradually increasing incomes, the "5-times" rule is reasonably well-adapted to the needs of such a borrower for a pattern of gradually increasing payments. However, the "5-times" rule could cause difficulties if interest rates should escalate sharply during the course of the repayment period, because almost all HEAL loans bear an interest rate that is tied to Treasury bill rates and changes quarterly. If rates should increase sharply, it might be necessary to violate either the "5-times" rule or the rule that the repayment period cannot exceed 25 years.

An additional difficulty with the "5-times" rule is that some borrowers are either unemployed or underemployed at the beginning of their repayment periods but can reasonably be expected to enjoy substantial incomes in a few years. Such borrowers may be willing and able to make small payments, but the amount of such payments could well be substantially less than one-fifth of the payments they will eventually have to make in order to repay their loans in 25 years.

In recognition of these difficulties the Secretary is eliminating from the final regulations the requirement that no payment in a graduated repayment schedule can be more than 5 times larger than any other payment.

#### *Section 60.14 The insurance premium.*

Section 60.14(a)(1) currently states that the Secretary will charge each lender an insurance premium for insurance against the default, death, disability of the borrower, or in the event that the loan is discharged in bankruptcy. The lender may pass the cost of the insurance on to the borrower. Further, the premium is due to the Secretary on the date of disbursement of the loan. Respondents requested that the Department delete the reference to the borrower's combined in-school and grace period, which, with the enactment of Pub. L. 99-129 on October 22, 1985, is no longer applicable to the way the insurance premium is calculated. The Department has revised this provision to delete the obsolete language.

One respondent agreed with the proposal in § 60.14(a)(2) to delete from that paragraph the provision stating that the payment of the insurance premium is due immediately after the lender collects the fee from the borrower. A similar requirement is now included in paragraph (a)(1). The Department has retained this subparagraph as proposed.

Seven respondents opposed § 60.14(a)(3), which would require that if the lender does not pay the insurance premium on or before 30 days after disbursement of the loan, a late fee would be charged on a daily basis at the same rate as the interest rate that the lender charges for the HEAL loan for which the insurance premium is past due. This provision would also prohibit the lender from passing on this late fee to the borrower.

Respondents suggested that the Department maintain the existing 60-day period for submitting the insurance premium, explaining that a 30-day period would undermine the lenders' monthly reconciliation of accounts. A 30-day period was also criticized as onerous for one State agency, which must request a warrant produced by the State Comptroller and can barely comply with the 60-day limit. One lender that remits insurance premiums monthly stated that it would have to remit funds twice a month to comply with this requirement, thus increasing its processing costs. It was also indicated that the costs for HHS would increase due to additional accounting and verification of penalty fee assessments and payments. Finally, one respondent noted that this provision could

complicate program administration since changes in loan status that occur in the early weeks of the loan term could not be adjusted prior to the loan manifest being sent to HHS.

In response to these comments, the Department believes that the 30-day period is a reasonable timeframe for submitting the insurance premium, and that the proposed late fee will encourage lenders to remit the premium promptly, which will provide the insurance fund with the maximum benefit of the funds owed to it. Any increases in administrative costs for the lender or the Department created by this provision are not expected to be sufficient to warrant its rejection. Therefore, the Department is retaining the provision as proposed.

Section 60.14(b) proposed that the rate of the insurance premium shall not exceed the statutory maximum. However, on August 28, 1986, final regulations implementing Pub. L. 99-129 were published which revised this paragraph to state that the insurance premium shall not exceed the statutory maximum and that changes in the rate will be announced through a general notice in the *Federal Register*. No further action regarding this paragraph is needed by the Department.

#### *Section 60.15 Other charges to the borrower.*

Thirteen respondents objected to § 60.15(a), which would require that the lender charge the borrower a late fee equal to 5 percent of the payment due if the borrower fails to pay all of a required installment payment or fails to provide written evidence of eligibility for deferment within 10 days after its due date. Several respondents felt that the late charge should continue to be optional or was unnecessary because the continued interest accrual on late payments provided adequate incentive for borrowers to repay on time. Others agreed that the charge should be mandatory, but considered the 10-day timeframe too restrictive, and felt that it should be expanded to 15-30 days. A few respondents questioned whether this would be an effective inducement to prevent default, and felt that it should not be implemented unless there was evidence that it would improve HEAL repayment. It was also suggested that lenders be given the option of waiving the late fee on a case-by-case basis, as appropriate, to assure that this provision does not hamper collection efforts, or that the late fee be waived if deferment materials were received within 30-60 days of the due date. Lenders also indicated that considerable expense



could be involved in reprogramming to keep track of the late charge. One respondent requested that the provision be reworded to clarify that the 10-day timeframe applied to deferment documentation as well as late payments.

The Secretary believes that charging a late fee will have the desired effect of discouraging delinquency, and notes that it is required by the Debt Collection Act and OMB Circular A-129 and it is also a common commercial practice to charge a late fee. The final regulations therefore retain the proposed provision that lenders must charge a late fee. However, the Secretary is persuaded that 10 days is too short a period of time to allow before a late fee must be charged. Therefore, the final regulations provide that a late charge equal to 5 percent of the unpaid portion of the payment due must be charged on any payment or deferment documentation not received within 30 days of the payment's due date. Since the timeframe has been changed to 30 days, the Department does not believe it is necessary or advantageous to give the lender the option of waiving the late fee.

Specific questions were raised concerning how the late fee would be calculated, when it would be assessed, how a partial payment would be credited, how an unpaid charge would affect the calculation of future charges, whether it would be compounded, whether it would be a basis for default if not paid, and whether it would be paid by HHS as part of the default claim. There was also concern that this provision would conflict with some State laws, and it was questioned whether Federal regulations could override State law.

In response to these questions, the Department clarifies that, as specified in the regulatory language, the late fee would be equal to 5 percent of the unpaid portion of the payment due. For example, if a \$500 payment is not paid within 30 days of its due date, the late fee would be \$25. This charge would be assessed immediately, and when a subsequent payment was made, the payment would be credited first to the late charge and then to the payment amount. Since section 731(a)(2)(D) of the Act only authorizes compounding of interest, the charge would not be compounded. Future charges would be based on 5 percent of the payment due, excluding any penalty charges. A penalty charge would not remain unpaid unless there was also an unpaid amount of principal and interest. Thus, the late fee in itself could not be a basis for default. In the event of default, late fees would not be paid to the holder by HHS,

since section 733(e)(2) of the Act limits the insurance coverage to the unpaid principal balance and accrued interest. With regard to the question of State law, the Department notes that Federal regulations supersede State law and thus any State restrictions on late fees would not be applicable.

#### *Section 60.19 Forms.*

The majority of the respondents who commented on this section were concerned that the Secretary was proposing to permit lenders to develop their own individual HEAL forms, which could result in a variety of differences and cause confusion for schools and borrowers. This was not the Department's intent; rather, this proposal was intended to permit lenders to reprint the Department's approved forms. Lenders had requested this operational change because the Department has sometimes experienced delays in the printing and distribution of forms. To assure conformity, no modifications on the standard HEAL forms will be permitted without prior departmental approval. Accordingly, this provision has been retained as proposed.

#### *Section 60.20 The Secretary's collection efforts after payment of a default claim.*

Respondents supported the proposed change in § 60.20 to incorporate the current reference to the Federal Claims Collection Standards, the OMB Circular A-129, issued May 9, 1985, and the Department's Claims Collection Regulation (45 CFR Part 30). Accordingly, the Department has retained this provision as proposed.

#### *Section 60.31 The application to be a HEAL lender.*

Many comments were received from schools and lenders on paragraph (c) of this section, which proposed to require a HEAL lender applicant to submit to the Secretary its written procedures for making, servicing, and collecting HEAL loans, and to follow for the HEAL program any of its own procedures that are more stringent than the requirements of §§ 60.33 through 60.35. In general, the comments could be placed into two categories. The lenders objected to submitting to the Secretary for approval their procedures for the making, servicing, and collecting of loans other than HEAL loans because they regard those procedures as being privileged information affecting their competitive position in the marketplace. Another concern raised was that the lenders would lose needed flexibility for dealing with changing conditions if the

procedures must have Federal review and approval.

The second general category of objections to § 60.31 (c) related exclusively to the making of HEAL loans. Many of these arguments were similar in nature to the comments received on § 60.33(c) and are discussed in that section.

In response to these comments the Secretary has modified the requirements proposed in § 60.31(c) to delete the requirement as applicable to the making of loans. The final regulations specify that each lender must develop and follow written procedures for servicing and collecting HEAL loans and that these procedures must include any procedures used by the lender in servicing or collecting its other loans of comparable dollar value that are more stringent than those required by §§ 60.34, and 60.35. Further, the lender's HEAL procedures will not be required to be submitted to the Secretary for advance approval, but will be reviewed during the biennial audit required by § 60.42(d). The lender's non-compliance with its own written procedures could form the basis for the Secretary's termination of the lender's participation in the HEAL program.

Several respondents requested that the Department establish a period for which the procedures would be applicable. Hence, paragraph (a) of this section has also been revised to specify that applications must be submitted annually. This also clarifies the Department's intention that these procedures must be set forth in writing by current and new lenders.

#### *Section 60.32 The HEAL lender insurance contract.*

The NPRM proposed to specify in paragraphs (a)(2) and (c)(2) of this section that the Secretary's guarantee of a HEAL loan is conditioned upon the lender's compliance with HEAL administrative policies. As mentioned in the discussion of the comments received on § 60.1(c), the Secretary has deleted those words in the final regulations, and has replaced them with the requirement of compliance with the lender's insurance contract.

Comments were also received on § 60.32(c)(3)(i), which proposed that a portion of the insurance authority for any fiscal year be set aside by the Secretary to be used to provide comprehensive contracts to lenders who would make HEAL loans at a rate of interest at least one-half percentage point below the maximum permitted under § 60.13.

The comments on this provision could be placed in three general groups. The first group requested clarification as to what would constitute a rate of interest at least one-half percentage point below the maximum. In response to this request for clarification, the final regulations specify that the rate reduction must be effective for the life of the loan and may not be "purchased" by the borrower through special concessions that other HEAL borrowers do not have to make.

The second group of comments on § 60.32(c)(3)(i) agreed in general with setting aside a portion of the insurance authority to be used for the stated purpose, but expressed concerns that the amount so set aside should not be so large as to make other HEAL loans unavailable, which could constitute an illegal impoundment, according to the comments. Many of these comments also requested that the amount set aside should be reserved only until December 31 of the fiscal year, not until March 31. In response to these comments, the Secretary has specified in the final regulations that the insurance authority set aside for this purpose will be reserved only until December 31. Further, the Secretary intends to set aside only that amount of insurance authority that could reasonably be used for the purpose specified by December 31 of the fiscal year.

The third group of comments on this section was opposed to the concept of a set-aside on the basis that the lenders who received comprehensive contracts under this provision might concern themselves primarily with making HEAL loans and then selling them, rather than servicing and collecting the loans. The Secretary believes that adequate provision is made elsewhere in the final regulations, most notably in § 60.31(c), to assure that all lenders, including lenders who receive contracts under this section, will make adequate provision for the servicing and collecting of HEAL loans.

Only one comment, which was from a lender and favorable, was received regarding the provision in § 60.32(c)(3)(ii), which would require lenders who received a contract under paragraph (c)(3)(i) of this section to notify students and schools at the time of application that they are making HEAL loans at a rate of interest at least one-half percentage point below the maximum permissible. Accordingly, the Department has retained this provision as proposed.

#### *Section 60.33 Making a HEAL loan.*

Only one comment was received regarding the proposed introductory

paragraph in § 60.33. The commenter stated that the Department must seek statutory authority to implement the procedures to determine the applicant's creditworthiness.

Although the statute does not expressly provide for a determination of an applicant's creditworthiness, it does require a lender to exercise reasonable care and diligence in the making of a HEAL loan. Since this requirement is consistent with the Department's debt management procedures and the requirements of OMB Circular A-129, the Department has retained it. However, the Department has deleted the reference to "financial aid transcript(s)" from this provision in response to comments discussed under § 60.51.

Paragraph (c) proposed that a lender must determine an applicant's creditworthiness using procedures at least as stringent as the procedures normally used by financial institutions in making similar loans for which the lender has no Federal, State, or other third party guarantee. To assist in this process, a credit report would be required.

Many of the comments received on this proposal were similar to comments on § 60.31(c), which related to the making of the loan. The commenters were nearly unanimous in objecting to the use of commercial standards for making HEAL loans. They pointed out that lenders making similar loans for which there is no Federal, State, or other third party guarantee require adequate collateral to secure the loan or require that the borrower be employed, have an excellent credit rating, and have an income adequate to service all of his or her debts. Few, if any, HEAL borrowers can meet these tests.

The Department intended that the lenders use the same procedures (e.g., contacting references) that they use for other loans—but not necessarily use the same criteria for the creditworthiness judgment (e.g., income or security). The Secretary believed that by placing the caveat in the regulations that the absence of any previous credit could not be used as a reason to deny a HEAL loan, individuals would recognize the distinction made by the Department between procedures and criteria. However, the numerous comments received indicated that this was not the case. Therefore, in response to these comments, the Secretary has modified the final regulations to provide that a lender may make a HEAL loan only to a borrower whose repayment history has been satisfactory on any loans on which payments have become due.

Some commenters objected to the proposed requirement that the lender obtain a credit report because few students have credit histories. The result of the requirement would therefore be primarily to delay the loan-making process. According to these comments little useful purpose would be served by requiring a credit report.

The Secretary believes that the benefits derived from denying HEAL loans to borrowers with poor credit histories will outweigh the negative impact of any delays encountered as a result of this requirement. Furthermore, the Secretary believes that lenders will be able to obtain credit reports expeditiously when it becomes a standard part of the loan-making process. The final regulations therefore require lenders to obtain a credit report, as proposed.

Only one comment was received regarding paragraph (e), which would allow the Secretary to approve all HEAL promissory notes, rather than providing them. This comment was favorable and the Department has retained this provision as proposed.

Several respondents opposed § 60.33(f)(1)(i), which would require HEAL funds to be disbursed by means of a check or draft payable jointly to the student borrower and the HEAL school. The Department notes that this provision is now required by section 731(a)(2)(G) of the Act as a result of Pub. L. 99-129, enacted on October 22, 1985. Therefore, this provision has been retained as proposed.

An additional change included in § 60.33 is the amending of paragraph (f)(1)(ii) to delete the words "if authorized in writing by the borrower." This change makes the provision regarding co-payment of HEAL checks consistent for student borrowers and non-student borrowers.

As discussed above in the section on § 60.10, the Secretary is also amending paragraph (f)(2) of this section to provide that the proceeds of a HEAL loan which covers more than one-half of an academic year must be disbursed in at least two installments as needed by the borrower over the course of the academic year. This is a substitute for the proposal in the NPRM that § 60.10 be amended to require a borrower to file an application covering a period of no more than 6 months, which would have required most borrowers to file at least two applications per academic year. The objections to that proposal are discussed above under § 60.10.

Several respondents opposed § 60.33(g) requiring lenders to deny a HEAL loan if the lender determines that

the applicant is not creditworthy. The Department has addressed these comments above in its discussion of § 60.33(c). Respondents also recommended that the lender be required to notify the applicant of the reason for denial. The Secretary has accepted this recommendation and the provision has been modified accordingly.

*Section 60.34 HEAL loan account servicing.*

No comments were received on the introductory paragraph of § 60.34, which would describe generally what is involved with HEAL loan account servicing. Accordingly, the Department has retained this provision.

The NPRM proposed to amend paragraph (b)(1) of this section to specify that a lender must contact a borrower at least 30 and not more than 60 days before the beginning of the repayment period to establish the terms of repayment. The NPRM further proposed that when a lender fails to comply with this requirement and a late conversion results, the lender may not charge the borrower for any additional interest or other charges, penalties, or fees that accrue.

One commenter objected to the prohibition against charging borrowers interest or other charges, penalties, or fees that accrue when a late payment occurs as a result of the lender's failure to contact the borrower within the specified time period. According to the commenter, this prohibition is inconsistent with the contractual arrangement between the borrower and the lender.

The Secretary believes that the borrower should not be penalized because of the lender's negligence. Therefore, the final regulations contain the proposed restriction. Furthermore, the Secretary emphasizes that all HEAL loans are secured by promissory notes with terms prescribed by the Secretary which specify that the provisions of the notes must be interpreted in accordance with the HEAL regulations.

The NPRM also proposed to add a new paragraph (c) to this section to require the lender to notify each borrower of the HEAL loan balance every 6 months and to specify that letters to the borrower must be sent in envelopes which have an address correction request on them.

The commenters objected to the requirement for an address correction request on the envelope, noting that erroneous information is sometimes provided by the Postal Service in response to such requests. One commenter said that the error rate was

25 percent. The Secretary believes that an error rate of 25 percent is not so great as to outweigh the benefit derived from the correct responses. Respondents also requested clarification about the format and timing of the 6-month contacts. The final regulations clarify that written contacts must occur at least every 6 months.

Three respondents objected to the proposed provision in paragraph (d) that the lender must initiate the skip-tracing procedures described in § 60.35(a)(2) if, at any time, the lender is unable to locate the borrower. They objected because it would be an unnecessary burden to lenders to require skip-tracing when this activity would occur most often during the in-school period. The Secretary has retained this provision, however, because information on the HEAL application may indicate that the borrower should be in school at a time when the lender cannot locate the borrower, but the borrower may actually have left school. Thus, the assumption that the borrower need not be contacted would be incorrect and the lender should initiate skip-tracing procedures. Further, if the borrower is still in school, the lender should be able to obtain a correct address through the school with minimal difficulty.

*Section 60.35 HEAL loan collection.*

Most of the comments on this section addressed the proposed requirement in paragraph (a)(1) that the last of four contacts with delinquent borrowers required before filing a claim must include telephone or other personal contact. Although several commenters agreed with the proposal, some commenters observed that if a borrower cannot be located, it is impossible to fulfill this requirement. They also remarked that some borrowers deliberately make it impossible for callers to reach them by telephone, as for example, by unlisted telephones or by instructing their receptionists to refuse to put the caller through to them. They also objected to the implication that the Secretary is requiring "door-to-door collectors."

In response to these comments, the Secretary has modified the final regulations to provide that the fourth contact must include a telephone contact, unless the borrower cannot be reached by telephone. As recommended by other respondents, the Secretary has also made minor modifications to the language of this provision to allow for "written contacts" rather than "letters," and to state that the second demand letter must inform the borrower that the continued delinquent status of the account shall be reported to credit

agencies if payment is not made. In addition, the Secretary clarifies that "personal contact" was included to give the lender the option to use personal contact as a substitute for a telephone call.

Paragraph (a)(2), which would require that the lender initiate skip-tracing activities when the borrower cannot be located, received 10 comments. Although most agreed with the proposal, several lenders believed that the activities specified would be burdensome. The Department notes that the skip-tracing activities included are commonly known to be effective in other student loan programs, and believes that these activities must be encouraged for the HEAL program. Consequently, the Department has retained this paragraph as proposed.

Most respondents supported the proposal in paragraph (b) to change the time that preclaim assistance must be requested from 60 days to 90 days. Accordingly, the Department has retained this provision.

One lender disagreed with proposed paragraph (c), which would require a lender to use, at a minimum, written collection practices that are at least as extensive and effective as those used by commercial lenders in the collection of other loans. The lender commented that each HEAL lender could not possibly know all the collection practices that might be used by commercial lenders. Another respondent questioned the word "written" to describe the collection practices which must be used, and suggested that the word be deleted to clarify that both written and nonwritten collection practices used by the HEAL lender for other loans must be used in the collection of HEAL loans. The Department accepts both of these suggestions and has modified this paragraph accordingly.

Several comments also questioned the meaning of the term "internal collection agents" as used in paragraph (c)(1). The Secretary clarifies that the term "internal collection agents" means a lender's own collection department that it would normally use in the collection of non-HEAL loans. Most lenders have such departments. The final regulations have been reworded to contain this clarification.

Several respondents opposed paragraph (c)(2), which would require litigation if appropriate. Several lenders requested clarification of the term "appropriate." Other lenders objected to the requirement that litigation must be used, citing a variety of reasons, including costliness and difficulty in

suing borrowers who are located throughout the United States.

The Secretary has revised this section to conform with the changes made in § 60.31(c), which require lenders to set forth in writing their procedures for servicing and collecting HEAL loans. Those procedures must include litigation in those cases where the lender would use litigation in collecting its other loans of comparable dollar value. Accordingly, § 60.35(c) has been modified to specify that a lender must use litigation consistent with the written procedures required by § 60.31(c).

Section 60.35(c)(3) proposed that a lender must notify a national consumer credit reporting agency of all HEAL accounts overdue by more than 60 days. One comment received on this requirement was that there is no truly "national" consumer credit reporting agency which has credit information on all borrowers in all locations throughout the nation. This commenter suggested the substitution of the word "appropriate" for "national." Another commenter suggested that this provision be expanded to require the reporting of the loan at the time it is made, so that borrowers can benefit from having a positive repayment record.

The Secretary has accepted the suggestion to substitute "appropriate" for "national," and the final regulations are worded accordingly both in this section and in § 60.33. However, the Secretary is not revising the regulations to require the reporting of these loans at the time they are made, as desirable as that step might be, because this would be a major change which should have the benefit of public comment before adoption as a final regulation.

Section 60.35(d) has also been modified to eliminate reference to "policies," by which was meant "administrative policies," and to substitute "the lender's insurance contract." The Secretary's decision to change this language is discussed above under § 60.1.

#### *Section 60.37 Forbearance.*

The NPRM proposed to modify § 60.37 regarding forbearance by requiring a lender to grant forbearance if the borrower is temporarily unable to make the scheduled payments on the loan but continues to make payments commensurate with his or her ability to repay. Some commenters agreed with the concept of making the granting of forbearance mandatory, rather than optional with the lender as it has been in the past. Others disagreed because the provision gives the Secretary latitude to substitute his judgment for that of the lender in determining the

circumstances under which a borrower should be given forbearance.

The Secretary recognizes that there should be a minimum amount of Federal interference in the relationship between the lender and the borrower. Further, the Secretary notes that nearly all lenders already comply with the intent of this provision, in that they grant forbearance when it is appropriate. However, it is necessary that the Secretary have the authority to refuse to pay a claim if the lender has denied forbearance to a borrower who is willing to repay the HEAL loan and has prospects of making regular repayments within a reasonable period of time, but is facing temporary hardship. Therefore, this provision has been retained as proposed.

#### *Section 60.38 Assignment of a HEAL loan.*

The NPRM proposed that this section be modified to require a lender to notify the Secretary, the borrower, the borrower's school, and schools formerly attended by the borrower within 15 days when the lender sells a HEAL loan to another lender. Several commenters objected to the number of notifications that would have to be made, arguing especially that schools formerly attended by the borrower would have no use for this information. In response to these comments the Secretary has modified the final regulations to eliminate reference to schools formerly attended by the borrowers.

Several respondents also opposed the 15-day time period for notification and suggested timeframes ranging from 30 days for the borrower notification to 60 days for the school notification. In response to these comments, the Department has modified this provision to allow a 30-day timeframe for all of these notifications.

#### *Section 60.40 Procedures for filing claims.*

Section 60.40(a) proposed to require the lender to include as part of its claim package all documentation necessary to litigate a default, including any documents required to be submitted by the Federal Claims Collection Standards. One of the commenters objected to this requirement on the ground that it seeks to shift onto the lender a work burden that properly belongs to the Federal Government. The Secretary, however, believes that it is not unreasonable to expect lenders to provide all the documentation necessary to litigate a claim. The final regulations contain the requirement as proposed.

The current regulations provide that a lender must file a claim with the

Secretary within 60 days of the triggering event, such as the lender's receipt of the notice of first meeting of creditors in a bankruptcy proceeding or the lender's receipt of the final determination by the Secretary that a borrower is permanently and totally disabled. The NPRM proposed to change the length of time which a lender is allowed for filing the claim after the triggering event from 60 days to 10 days. Both lenders and schools objected to this shortening of the time period for filing claims, arguing that 10 days does not allow the lender sufficient time to respond. They argued that allowing the lender adequate time to respond will not prejudice the Secretary's rights with respect to a death claim or a claim for permanent and total disability. The commenters frequently suggested 30 days as a reasonable requirement.

The Secretary is persuaded by these comments, and the final regulations have been modified to allow 30 days for the filing of claims, with two exceptions. The first of those exceptions concerns filing a claim in the case of a bankruptcy proceeding under Chapter 13 of the Bankruptcy Act. Chapter 13 is frequently called the "Wage-Earner Plan." It has been the Secretary's experience that the Federal Government is very likely to suffer a monetary loss unless the Secretary can enter a Chapter 13 bankruptcy proceeding expeditiously. Thus, the 10-day requirement remains in the final regulations for Chapter 13 filings. The second exception concerns the forwarding of a bankruptcy notice received by the lender after the lender has filed a default claim. The Secretary believes that it is not unreasonable to expect such documents to be forwarded within 10 days of receipt, because the lender does not have to prepare a claim before forwarding such a document. The final regulations have been revised accordingly.

As proposed, this section also included a provision that a bankruptcy claim package submitted by the lender to the Secretary must include a proof of claim. A commenter pointed out the fact that some bankruptcy courts do not accept proofs of claim. The Secretary recognizes this situation and the final regulations have been revised to provide that the claim package need not include a proof of claim if the bankruptcy court does not accept proofs of claim. Otherwise, the claim package must include a proof of claim showing evidence that it has been submitted to the bankruptcy court.

*Section 60.42 Records, reports, inspection, and audit requirements for HEAL lenders.*

The NPRM proposed to revise the heading and amend the text of this section by including, among the records a lender is required to maintain, those documents required to substantiate compliance with new requirements proposed elsewhere in the regulations, such as evidence of a borrower's creditworthiness. As stated in the discussion of the comments received on § 60.33(c), the Secretary is clarifying the proposal requiring the lender to determine that a borrower is creditworthy. This provision as modified requires that a lender must determine that a borrower's repayment history on loans that have become due is satisfactory. In making this determination, the lender is required to obtain and use a credit report. Accordingly, § 60.42 has been revised to specify that the lender must retain a record of the borrower's credit report.

In addition, § 60.42 has been modified to specify that the lender must retain a record of its written procedures for servicing and collecting loans as set forth in § 60.31(c). Further details on this point may be found under the discussion of § 60.31(c).

*Section 60.50 Which schools are eligible to be HEAL schools?*

Only one comment was received regarding § 60.50, which would modify the list of approved accrediting agencies to reflect the change in the name of the Council of Podiatry Education to the Council of Podiatric Medical Education. The response was favorable and the Department has retained this provision.

*Section 60.51 The student loan application.*

Fifty-five respondents opposed the introductory paragraph in § 60.51, which would require that, prior to certifying a student's HEAL application, the school must conduct an entrance interview which provides the student with information about the HEAL loan, including an explanation of the borrower's rights and responsibilities. Respondents indicated that this proposal would be burdensome and difficult to administer, and would create delays in processing applications and distributing funds to borrowers. The major concerns focused on how the entrance interview was to be conducted, who should conduct it, and when it should occur. Respondents suggested that schools should be allowed to do the entrance interview by mail, and that the regulations should be clarified to state

that in-person interviews can be done individually or in groups. Some respondents also indicated that this function should be completely or partially the responsibility of the lender because the school is not sufficiently knowledgeable to answer an applicant's specific questions about the HEAL program. There was much opposition to the requirement that the entrance interview be done prior to certification of the HEAL application since many applicants would not be on campus at this time. It was suggested that the entrance interview should be required prior to the disbursement of HEAL funds. Respondents also requested clarification of whether two entrance interviews would be required if a borrower files two applications in the same academic year. Further, it was suggested that schools be compensated for this activity through some type of administrative allowance. Respondents requested that the Department specify in the regulations the minimum requirements regarding the content of the entrance interview so schools could be sure that they were in compliance with the regulations. They also suggested that the Department develop a form or pamphlet to be used in the entrance interview which could easily be updated for repeat borrowers.

In response to these comments, the Department has amended this provision to delete the requirement that an entrance interview be conducted prior to certifying a student's HEAL application. The remainder of these concerns are addressed below under § 60.61(a)(1), which sets forth the entrance interview requirement, which has been modified.

No comments were received on the proposal in § 60.51(a), which requires the school to accurately and completely fill out its portion of the HEAL application. This is only a minor modification to the existing regulations, not a change in the school's responsibilities, and the Department has retained this provision.

Sixty-four respondents commented on the proposed provision in paragraph (b) requiring a school to verify, to the best of its ability, information provided by the student on the HEAL application, including, but not limited to, citizenship status by using a notarized copy of the applicant's birth certificate or the applicant's I-151 or I-551, if the applicant is required to possess such identification by the United States, and Social Security number by using the applicant's original Social Security card or copy issued by the Federal Government. Respondents did not oppose the requirement for an

applicant's I-151 or I-551 ("green card"), which is a longstanding application requirement. Most commenters, however, did object to the requirement that every applicant furnish a notarized birth certificate and a copy of his or her original Social Security card, on the grounds that this requirement represented an unreasonable administrative and recordkeeping burden. They stated that these requirements would result in delays in the loan process for students who may not possess or be able to obtain these documents. Comments from schools argued that this verification requirement is redundant with the requirement in § 60.51(c) that the school certify the student is eligible to receive a HEAL loan. Many stated that the verification should be required only when the school has reason to believe that the information supplied by the student is not accurate. Some respondents commented that their schools already had effective systems for verifying citizenship status through foreign student advisors who work directly with the Immigration and Naturalization Service. One respondent suggested that the provision be revised to require that schools have effective systems in place, without specifying any required documentation, to insure that HEAL loan applications are processed only for fully eligible citizens with proof of such status retained in institutional files.

The Secretary believes it is of critical importance that the school assure that applicants meet the HEAL eligibility requirements and are identifiable. Thus, it is reasonable to require schools to verify citizenship status, Social Security number, and other information on the student application. The verification of the Social Security number is important because this number is used as a unique identifier by many agencies in the Federal Government and by much of the private sector. Many skip-tracing techniques, should they become necessary, are impossible without an accurate Social Security number.

However, the Secretary is sensitive to the concerns of both schools and students regarding documentation requirements. For this reason, the Secretary has modified § 60.51(b) to allow and encourage schools to require each HEAL applicant to provide a certified copy of his or her birth certificate, original Social Security card, naturalization papers, or other documentation the school believes is necessary. The deletion of the requirement to obtain the documents does not lessen the responsibility of the school to assure that information

provided is accurate, but allows each school to determine the method of verification that will be least burdensome. The Department notes that each school may be held accountable under § 60.51(c) for verifying information on the application.

No comments were received on § 60.51(c), which would require that the school certify that the student is eligible to receive a HEAL loan, according to the requirements of § 60.5. The Department has retained this paragraph.

Sixty-seven respondents opposed § 60.51(d), which would require that the school obtain from the student and forward to the lender a copy of the financial aid transcripts which contain complete information on all of the borrower's educational loans and grants, including the outstanding principal on any educational loans. Respondents objected to forwarding copies of the transcripts to the lender, stating that this was burdensome and unreasonable, would create unnecessary paperwork, and would cause significant delays in the HEAL application process. Most respondents indicated that it was preferable for the school to review the financial aid transcript, certify on the application that the borrower was not in default according to the transcript information, and maintain a copy of the transcript in its own files. Some felt that the responsibility for reviewing an applicant's creditworthiness should rest entirely with the lender, and that if a transcript was necessary as part of this review the lender should obtain it directly from the applicant's prior school(s).

In response to these comments, the Department has revised this provision to delete the requirement that the transcript be forwarded to the lender, and to require that the school review the transcripts to verify that the borrower is not in default and does not owe a refund on any educational grants, and maintain copies of the transcripts in the borrowers' records.

A few respondents requested that the provision be clarified to indicate that the transcript must be obtained from each institution the student has previously attended on at least a half-time basis, and to state that transcripts only need to be obtained the first year the student applies for funds, since the information would not change while the student is in school. The Department has modified the provision to address both of these concerns.

Several respondents indicated that transcripts frequently are not received by the school on a timely basis. It was suggested that a school be permitted to certify an applicant's initial HEAL

application without the transcript, but be required to have the transcript prior to disbursement of funds. Another suggestion was that the school be allowed to make the initial HEAL disbursement prior to receipt of the transcript, but be required to have the transcript on file prior to making a second disbursement or certifying a second application for a borrower, consistent with the requirements for the Department of Education programs. The Department recognizes that a school could have difficulty obtaining a transcript prior to certifying a borrower's first HEAL application, but encourages schools to obtain the transcript, if possible, before disbursing any HEAL funds. However, in view of the respondents' concerns, this provision has been modified to state that a school may certify an initial HEAL application and disburse the first HEAL installment before receiving the transcript, but must obtain the transcript and verify that the borrower is not in default on prior loans and does not owe a refund on prior grants, before approving any additional HEAL disbursements.

Respondents also objected to the proposed content of the financial aid transcript, noting that some of the proposed information is not available on the existing transcript and would be virtually impossible to obtain. Specifically, the transcript does not include information on the unpaid balance of a borrower's loans or on non-Federal aid that is not administered by the school. Respondents also noted that borrowers are already required to report current indebtedness on the application and therefore information on unpaid loan balances was not necessary on the transcript. The Department was encouraged to make this requirement consistent with the existing financial aid transcript used by schools participating in Department of Education programs to avoid additional unnecessary burden. In response to these comments, the Department notes that it did not intend for schools to have to develop a separate transcript to meet this requirement, and has revised this provision to delete the requirements for information not available on the existing transcript.

Fifty-eight respondents commented on the proposed provision in paragraph (e) that a school must attest that it has no reason to believe that the borrower will not, or may not be able to, comply with any requirements, including the repayment requirements, of the HEAL loan. Most commenters opposed the provision because it was too vague and required too much of a judgmental

evaluation on the part of the financial aid administrator which may subject the school to legal charges from students on the basis of discrimination or denied access to HEAL funds. Most commenters were very concerned that the financial aid administrator was being required to determine a borrower's creditworthiness and future income potential. Several respondents thought the provision could be clarified by the Department establishing criteria for schools to use in making this attestation.

This provision was proposed because there have been instances reported to the Department where a loan applicant has indicated to the financial aid administrator that he or she does not intend to repay the HEAL loan(s). As a result of these instances, some financial aid administrators have asked the Department for explicit legal authority to recommend the denial of loans in these and similar cases. The Secretary believes that such a provision should be retained because it provides the explicit regulatory authority requested. However, in view of the comments received, the Department has modified this provision to clarify the intent, including the deletion of the word "attest" and references to the borrower's ability to repay. Accordingly, the provision is being adopted as modified.

Sixty-one respondents opposed § 60.51(f)(1), which would require the school to calculate all financial assets of the applicant which are available for the period covered by the proposed HEAL loan by using one of the national need analysis systems approved by the Secretary of Education and published under 34 CFR 674.13. Most respondents expressed concern that this provision was too restrictive and would preclude many students who need HEAL funds from receiving them, since their actual need may be greater than their calculated need indicated on the need analysis. Respondents also requested clarification of how parental contributions would affect the eligibility of independent students, and objected to these students being denied HEAL funds because of an expected parental contribution which was not really available to the student. Several respondents noted a discrepancy between the intent of this provision as described in the preamble—to assure that HEAL borrowers do not receive more than they actually need—and the wording of the regulatory proposal. It was suggested that the Department amend the regulatory language to clarify that this provision would not require

schools to consider as available an expected contribution that did not actually exist, but rather was designed to reveal any support that is forthcoming. Further, it was suggested that the provision should more clearly state that the school may use professional judgment to determine the actual resources available to the student.

Respondents also indicated that requiring the use of a need analysis system approved by the Department of Education would always include consideration of all resources available to the student, and any additional reference to financial assets was duplicative and extraneous. Several respondents opposed the use of a need analysis because of the increased workload involved. It was felt by some that the high cost of a HEAL loan provided students with adequate incentive to limit their borrowing under this program, and that it was sufficient to limit borrowers' loan amounts to the difference between educational costs and other aid received. There was also concern that this proposal should not be implemented without a statutory amendment.

In response to these comments, the Department clarifies that this provision was not designed to preclude students from obtaining HEAL funds when they are actually needed, but rather to assure that students do not borrow more HEAL funds than necessary. Further, the Department did not intend that a student be denied access to a HEAL loan because of an expected family or parental contribution calculated through the need analysis that the applicant has not received or will not receive for the loan period. This provision does not require a statutory amendment since the HEAL statute already requires that HEAL funds be used only for educational costs and this provision is consistent with that requirement.

To address the concerns regarding the ambiguity of this proposal, the Department has modified the provision to state that the school must determine the total financial resources actually available to the applicant (including familial, spousal, or personal income or other financial assistance that the applicant has received or will receive). In making this determination, the school must consider information provided through one of the national need analysis systems or any other procedure approved by the Secretary of Education and published under 34 CFR 674.13, in addition to any other information which the school has regarding the student's financial situation. This provision will

also clarify that the school may make adjustments to the need analysis information only as necessary to accurately reflect the applicant's actual resources available for his or her costs of education and must maintain in the borrower's record documentation to support the basis for any adjustments.

Forty-three respondents opposed § 60.51(f)(2), which would require that the school calculate the costs reasonably necessary for each student using a standard budget system, would prohibit expenses which have already been paid from being included in this calculation, and would require the school to maintain in the student's record the criteria used for determining the reasonable costs.

Respondents strongly objected to the language that the budget exclude costs already paid, explaining that many students obtain emergency loans, short-term loans, or use credit cards to pay expenses pending receipt of their HEAL loans. In these situations, the students are depending upon receiving HEAL funds to cover these costs although they have already been paid. Respondents also stated that this proposal would require the construction of a separate budget for each student every time he or she applied for a HEAL loan, since the school would have to determine on an individual basis what costs had already been paid. Further, it was noted that, if the student's resources reflect the total resources available for the period being covered by the HEAL loan, but the budget reflects only unpaid costs for the period covered by the HEAL loan, the borrower's true unmet need would not be reflected. In response to these comments, the Department agrees that costs paid by emergency or other short-term loans or credit cards while awaiting approval of a HEAL loan or other student assistance should not be excluded from the budget and that the need analysis process should assure that all available resources have been considered. Therefore, the Department has deleted this language.

Numerous respondents indicated that schools need flexibility to adjust the standard budget when special circumstances of the borrower warrant, and requested that the Department amend the provision to allow this. There were also objections to the requirement that the criteria used for determining the reasonable costs be maintained in each student's record, since this information is maintained by the school in a central budget file. Respondents suggested instead that the student's record only needed to include documentation of any adjustments made to the standard

budget. Another suggestion was that the Department delete the word "system" and refer instead to the use of standard budgets. This modification would assure that schools are allowed to develop standard budgets that accurately reflect the needs of their students, and are not required to use a generalized budget system that exceeds their students' needs.

In response to these comments, the Department has amended this provision to allow budget adjustments, but only to the extent that they are necessary for the student to complete his or her education, to clarify that the criteria used to develop the budgets may be maintained in a general record and any budget adjustments must be documented in the individual student record, and to delete the word "system."

#### *Section 60.52 The student's loan check.*

Seven respondents agreed with the proposal in § 60.52 to require that the student endorse the instrument, allow the school to collect money due to it directly, and then give the remaining funds to the borrower. Accordingly, the Department has retained this section.

#### *Section 60.53 Notification to lender of change in enrollment status.*

Section 60.53 proposed that each school notify the holder of the loan note within 15 days following a change in the student's enrollment status. Forty-seven respondents suggested alternative time requirements from 30 to the current 60-day requirement. The Secretary believes that lenders will receive the required information regarding most enrollment changes through the exit interview procedures. For those students who change their status, but who would not necessarily receive an exit interview, e.g. a change from full-time to part-time status, this notification would be required. The Secretary does not wish this requirement to be an unreasonable burden, therefore, this section does exclude vacation periods and leaves of absence or other temporary interruptions which do not exceed one academic term. Since this notification will be required for only a few HEAL borrowers, the Secretary accepts the suggestions that a 30-day period is adequate. Several lenders stated that the receipt of the borrower's Social Security number with the other information is needed to accurately identify the borrower. Accordingly, the Department has retained this section with the discussed modifications.

*Section 60.56 Records.*

No comments were received on the general language in § 60.56(a), which would require each school to comply with section 739(b) of the Act and to maintain an accurate, complete, and easily retrievable record with respect to each student who has a HEAL loan. Accordingly, the Department has retained this provision.

The only comment received regarding § 60.56(a)(4) was favorable. This paragraph would require the school to maintain on each student a record which contains the amount and source of other financial assistance received by the student during the period the student also received a HEAL loan. Accordingly, the Department has retained this provision.

The Department received 15 comments disagreeing with the proposed requirement that schools maintain in each student's file the written procedures for the receipt, verification of amount, and disbursement of HEAL checks or drafts. Commenters generally believed that the requirement would be an unnecessary burden and create redundant records because this information is already maintained in general office records. Further, these procedures would not vary among HEAL borrowers. The Department believes that the concerns of the respondents are valid and has deleted this requirement from paragraph (a)(9). However, because the Department believes it is important that the school develop and adhere to its own written policies in this matter, a new paragraph (d) has been added to require that these procedures be maintained in the school's policies and procedures manuals or other general office records. Further, the Department does accept the suggestion received from a school which would require the school to maintain a photocopy of the check or draft in the student's official file, and has included this in paragraph (a)(9).

Sixteen respondents opposed § 60.56(a)(10) and (a)(11), which would require the school to include in the record for each HEAL borrower a list of all items discussed during the entrance and exit interviews, the dates of the entrance and exit interviews, and the signature of the borrower. There was concern that "all items discussed" implied the need for transcripts of the entrance and exit interviews and would not accommodate those conducted by mail. It was also suggested that the Department specify in the regulations the items to be included in the entrance and exit interviews, and that

documentation of items covered should not be required unless this is done. The Department was asked to develop suggested entrance and exit interview documents for the student to sign and date. Individual respondents felt that certification by the student that the entrance and exit interviews were held should be adequate documentation, that a signature should not be required for a telephone interview, that these requirements should be consistent with other Federal loan programs, that this provision imposes additional paperwork and burden on the school for which it receives no compensation, and that this responsibility, including the maintenance of any records, should be performed by the lender rather than the school.

In response to these comments, the Department has modified these provisions to require that the school maintain in the borrower's record documentation of each entrance and exit interview, including the borrower's signature and the date conducted. The Department has also clarified paragraph (a)(11) to state that, if the borrower fails to report for the exit interview, the school must have documentation of the date exit interview materials were mailed to the borrower. The Department is not specifying in these sections items which must be documented to allow each school discretion in developing documentation that is least burdensome. However, additional guidance regarding the minimally required content of the entrance and exit interviews is provided in § 60.61(a)(1) and (a)(2).

Twenty-six respondents opposed § 60.56(a)(12), which would require the school to maintain in the borrower's file a notarized copy of the borrower's birth certificate or a photocopy made by the school of the borrower's I-151 or I-551, and a photocopy made by the school of the borrower's original Social Security card or copy issued by the Federal Government. Respondents indicated that this was an unreasonable and onerous burden to place on the schools and would create a tremendous volume of unnecessary and unwarranted paperwork. In response to these comments, the Department has revised this provision to require that the school maintain a copy of the borrower's I-151 or I-551 if the borrower is required to possess such identification by the United States, and other documentation, if obtained, to verify a borrower's citizenship status and Social Security number.

Two respondents opposed § 60.56(a)(13), which would require the school to maintain in the borrower's

records documentation of the calculations which compare the financial resources of the applicant with the cost of his or her education at the school. It was noted that the calculations for costs and resources appear on the application, and that the documentation required by this provision should be specified. There was concern that standard budget documentation be in a central record, rather than in each individual student record. In response to these comments, the Department clarifies that this provision would require a copy of any information used by the school to determine the borrower's financial resources and documentation of the basis for any adjustments to the need analysis calculations and the standard student budget. Since this information is consistent with § 60.51(f), and is necessary to verify that a borrower does not overborrow in the HEAL program, the Department has retained this provision as proposed.

The Department received 14 responses objecting to paragraph (a)(14), which would require the school to maintain in each student's official file a copy of each financial aid transcript which was sent to the lender. To conform to the requirement implemented in § 60.51(d), the words "which was (were) sent to the lender(s)" have been deleted and the provision has been retained accordingly.

Seven respondents opposed § 60.56(a)(15), which would require the school to maintain in the borrower's records documentation of the criteria used to prepare the cost of attendance for the student to pursue his or her education at the school. These respondents indicated that the standard budget information should be maintained in a central record, and the student record should only be required to include documentation of any adjustments made to the standard budget. The Department agrees with these comments and has modified this provision to require that the student record include the standard budget and documentation to support the basis for any adjustments to the standard budget.

No comments were received on the proposal in paragraph (a)(16), which would require the school to maintain copies of all correspondence between the school and the borrower or between the school and the lender or its assignee regarding the loan. Accordingly, the Department has retained this provision.

The Department received six responses disagreeing with the proposed requirement in paragraph (a)(18) that the school maintain the student's



postgraduate destination. One commenter stated that the relevancy of this requirement is vague. Another stated that the school can only obtain the borrower's expected postgraduate destination. Since this requirement is contained in the current regulations, the Department emphasizes that HEAL schools are currently required to collect information regarding each HEAL borrower's postgraduate destination. However, the Department has modified this provision with the addition of the word "expected" before "postgraduate destination."

Three favorable responses were received regarding the proposed requirement in paragraph (c) that each HEAL school must comply with the Department's biennial audit requirements of section 705 of the Act. One school objected to this requirement because it believes that the school has a relatively minor role in the administration of HEAL loans. The Department, however, believes that each school plays a critical role in program administration—particularly while the borrower is a student. In response to two comments suggesting that an audit guide must be published prior to any such requirement, it is noted that audit guidelines do exist, through the Department's Regional Offices of the Inspector General for Audit, which have been easily adapted to the HEAL program. Accordingly, the Department has retained this provision.

*Section 60.60 Limitation, suspension, or termination of the eligibility of a HEAL school.*

There were no responses to the proposal in § 60.60 which deleted an inaccurate reference to § 60.61. Accordingly, the Department has retained this section.

*Section 60.61 Responsibilities of a HEAL school.*

The Department received 31 responses on the provision in paragraph (a)(1), which would require schools to conduct and document an entrance interview with the borrower. The majority of the commenters wanted the regulations to allow more flexibility in the method and timing of the interview. Several suggested that the regulations permit schools to conduct the entrance interviews by mail because many applicants for loans will be new students not yet at the campus and students away on clinical rotations distant from the campus. Others suggested that it could be done in groups of students. Several were concerned with the burden of multiple interviews in view of the proposal that loan periods

not exceed a maximum of 6 months. Most stated that the schools also need the flexibility of being able to conduct the interviews prior to disbursement of loan proceeds rather than prior to certification of the borrower's application. Others requested more clarification of what information must be given the student during the entrance interview. Some commenters suggested that the Department should develop entrance interview materials which each school can easily use to meet this requirement or to include some of the requirements on the promissory note. The Department agrees and is willing to develop and revise program materials, as appropriate. While almost all respondents expressed general concerns about increased burdens on schools, only a few felt that the requirement for entrance interviews was not justified.

Based on these comments, § 60.61(a)(1) has been revised to permit schools to conduct and document entrance interviews on an individual or group basis as long as the school maintains a record of the date of the interview and obtains the signature of the borrower. Although the Department would prefer that entrance interviews be in person (individually or in groups), schools will be able to meet the requirement through correspondence where the school determines that a face-to-face meeting is impracticable. The Department would also prefer that the entrance interview be a part of the loan application process, but will permit schools to satisfy this requirement with an entrance interview conducted prior to the first loan disbursement.

In response to requests for clarification of what the Department expects in the entrance interview, language has been added to state explicitly that schools must gather personal data which will assist in locating the borrower should the borrower withdraw without having an exit interview, in addition to informing the borrower of his or her rights and responsibilities under the HEAL program. Although not required by these regulations, the Department encourages schools to use the entrance interview as an opportunity to provide the borrower with debt management counseling. The section has also been revised to state that the entrance interview must be conducted at least once in each academic year for which the borrower obtains a HEAL loan.

The Department received 47 comments on § 60.61(a)(2), which would require that schools conduct and document an exit interview prior to a borrower's departure from the school.

Most agreed with the requirement for an exit interview. Some schools felt, however, that this should be the responsibility of the lender and could be accomplished through the mail by an exchange of information between the lender and the borrower. The Secretary continues to believe that this function is best performed by the school because the school is in a better position to have face-to-face contact with a borrower prior to his or her graduation or other departure from the school and to know exactly where the student is, if he or she is away from the school undertaking clinical training. Further, many schools already engage in exit interviews with their students who borrow from HEAL, and other programs.

Almost all respondents stated that the requirement that the exit interview be conducted 60 days before graduation was unrealistic and most suggested, as an alternative, 6 months prior to graduation or during the final term of study (e.g., semester, trimester). The arguments presented included that many students would be away from campus undertaking clinical training, that the last 60 days prior to graduation is already an extremely busy time for schools as they conduct need analyses for continuing students and process students for graduation, and that this timeframe is not consistent with requirements for exit interviews under other Federal student aid programs. Most also stated that the 15-day requirement for notification of lenders was inadequate. In response to these concerns, the Department is revising the provision to permit the exit interview to be conducted during the final term of study and to allow a 30-day period for notifying the lender that the exit interview has been conducted or necessary materials mailed to the borrower.

In response to several requests to clarify what is expected in the exit interview, the provision is also being modified to state explicitly that, as a part of the exit interview, the school must obtain personal information which would assist in locating the borrower if he or she does not keep the lender informed of his or her current address, including, but not limited to, an update of the information provided during the last entrance interview and his or her expected post-graduation destination, and must direct the borrower to contact the lender for specific information on repayment terms.

Many respondents also commented that the exit interview materials should be maintained by the school in the borrower's records and available to the

lender upon request rather than mailed to the lender. The Secretary continues to believe that this information must be provided to the lender and kept by the lender in the borrower's record. Should the lender need to implement skiptracing procedures, valuable time would be lost if the lender had to first contact the school to secure personal data gathered during the exit interview. The extension of the time periods for conducting the exit interviews and notifying the lender(s) should alleviate some of the administrative burden for schools. Therefore, the requirement to mail exit interview materials to the lender is retained.

Several respondents expressed concerns about the requirement in paragraph (a)(3) that schools verify the accuracy and completeness of information provided by each student on the HEAL application, particularly in regard to HEAL eligibility, and notify the potential lender of any discrepancies which were not resolved between the school and the student.

The Secretary notes that HEAL regulations have always required as a part of the loan application process, that a school verify, to the best of its ability, information provided by the student on the application and certify that the student is eligible to receive a HEAL loan. Some respondents requested a list of specific items to be verified and types of discrepancies which would not be resolved between the school and the student prior to submitting the application to the lender.

The Secretary believes the financial aid administrator is in a better position to know what other documents are available at the school to verify a student's eligibility, including but not limited to a student's citizenship status, enrollment status, and amount of HEAL loan required based on the need analysis. Some examples of discrepancies which might remain unresolved include differences in prior educational loans as reflected on the financial aid transcript and as reported by the borrower, or cases where information previously reported was erroneous, such as an incorrect Social Security number. In response to general concerns that schools will be held liable for defaults for minor or inadvertent infractions of the regulations, the Department has modified § 60.61(c), as discussed under that section.

Five respondents commented on the proposed requirement in paragraph (a)(4) that schools develop and implement procedures relating to check receipt and release which keep those functions separate from the application process and assure that the amount of

the HEAL check(s) does not exceed the statutory maximums. Two commenters stated that their schools already had separate procedures for award approval and check disbursement. The Secretary would note that this separation of award and disbursement functions is currently included as an effective internal control system under HHS audit guidelines and the generally accepted accounting principles used by independent auditors. Since the majority of the respondents did not express concerns regarding this provision, it is being retained as proposed.

Fifteen respondents commented on the school's proposed responsibility in paragraph (a)(5) to maintain accurate and complete records and the requirements for their storage. Most considered this provision overly burdensome and costly. Based on these comments and those received on § 60.56, the Department has modified this provision in an attempt to minimize burden on the schools while assuring that records are complete and properly maintained.

Eleven respondents commented on the proposed requirement in paragraph (a)(6) that the school must maintain a standard student budget system and maintain in each borrower's record a copy of the budgetary calculations used in determining the maximum amount approvable for the student as described in § 60.51. The majority of the respondents had no problems with the requirement for standard student budgets, but requested clarification of the budgetary calculations to be maintained in each HEAL borrower's file and whether this permitted deviations from the standard budget. This proposal has been modified to conform to the requirements in § 60.56 (a)(13) and (a)(15), which require the school to maintain in the borrower's records documentation of the calculations which compare the financial resources of the applicant with the cost of his or her education at the school, and documentation of any deviations from the student budget. Another modification based on comments is that the standard student budgets must be readily available for audit purposes. Accordingly, the Department is adopting this provision as modified.

Twenty-four respondents commented on the proposed requirement in paragraph (a)(7) that schools must notify the lender or its assignee of changes in a student's name, address, status, or other information pertinent to the HEAL loan within 15 days of receiving this information. Almost all commenters stated that the 15-day notification is not

sufficient time and most respondents suggested that 30 days would be more reasonable. Others proposed to maintain the already existing 60-day requirement, proposed a 45-day requirement, or did not specify an alternative. Based on these comments and the need to assure more timely notification of changes than in the past, the Department is adopting the suggestions for a 30-day time period.

Twenty-seven respondents commented on the proposed requirement in paragraph (b) that schools report information indicating potential or actual fraud or other offenses involving these loan funds to the appropriate Regional Office of Inspector General for Investigations. Most respondents had no problems with reporting fraud, but objected to the inclusion of "potential" fraud as too vague, and wanted definitions or examples of what would constitute fraud and potential fraud.

The Office of the Inspector General (OIG) has defined "fraud" as the obtaining of something of value, unlawfully, through willful misrepresentation. The OIG believes that retaining the word "potential" provides a strong deterrent to individuals and will serve to prevent fraud. The Department believes that any listing of examples of circumstances in which fraud or potential fraud may be involved would not be exhaustive and would result in schools contacting the OIG only on those cases which fit the examples. One school commented that it has already reported cases to the OIG. The Department intends for schools to use a "reasonableness standard" in complying with this requirement. That is, when a school knows or reasonably suspects that an individual is being fraudulent in his or her application for or use of HEAL funds, the school should contact the appropriate OIG to report the case. Since the Department believes it is imperative that fraud not be involved in programs where Federal liability exists and that strong deterrents will help to prevent fraud, this provision is being retained as proposed.

The Department received 45 comments on the proposed provision in paragraph (c) that the school will be considered responsible and the Secretary may seek reimbursement from the school for the amount of a loan in default on which the Secretary has paid an insurance claim, if the school did not comply with the applicable HEAL statute, regulations, and policies. The majority of the respondents agreed that a school should be held responsible and financially liable when the failure for

compliance was substantial, reflected a material omission, or gross negligence, and contributed directly to the default. Almost all objected to the inclusion of HEAL policies within this provision and almost all expressed concerns that a school should not be held financially liable due to minor infractions or errors and other non-compliance which did not contribute to the default of the loan.

The Secretary does not intend to hold a school financially liable for a default when the school may have committed minor infractions or errors, not directly related to the default. Rather this section was added to state explicitly the school's responsibility for compliance with the HEAL statute and regulations and its liability for noncompliance. However, in view of the concerns raised, and to clarify its intent, the Department has omitted the reference to policies, substituted a reference to the school's written agreement with the Secretary, and added language patterned after language included in existing § 60.41(d) applicable to HEAL lenders.

In addition to the proposed revisions, the Secretary requested comments on the proposal to set aside a percentage of the total insurance authority to provide preferential consideration for contracts from lenders with low default rates. Two lenders responded in detail to the Secretary's request. One lender opposed the proposal because it was felt that such a set-aside would impact adversely on lenders who have made the financial commitment to service HEAL loans during the repayment period, as opposed to lenders who sell their loans to a secondary market. This lender also felt that the set-aside would encourage lenders to make loans only to those students in health disciplines with low default rates, thus leaving certain populations unserved. The second lender was opposed to the set-aside proposal because of factors other than a lender's compliance with the program regulations that affect a lender's default rates. Both believed that considerable study was needed before developing this proposal.

Despite the comments discussed above the Secretary continues to believe that a set-aside proposal may be a viable method of assuring that lenders maximize their efforts to reduce HEAL defaults. The Department will continue to examine this concept as well as other approaches to minimizing HEAL defaults.

As discussed previously in § 60.14(a)(3), the Department is adopting the proposal to charge a late fee on insurance premiums submitted more than 30 days after collection. The OIG

has recently suggested that lenders should be required to pay a penalty for insurance premiums submitted more than 7 days after collection to assure maximum interest on invested insurance funds. Should the Department accept this suggestion, it would be included in a future NPRM. However, the Secretary invites public comment on the suggestion. Any comments received will be considered in deciding whether to issue a new NPRM.

#### Regulatory Flexibility Act and Executive Order 12291

The Department believes that the resources required to implement the new requirements in these regulations to improve debt management practices and due diligence procedures for making, servicing, and collecting HEAL loans are minimal in comparison to the overall resources of the lenders and the schools. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant impact on a substantial number of HEAL lenders and schools.

The Department has also determined that this rule is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required. In addition, the proposed rule will not exceed the threshold level of \$100 million established in section (b) of Executive Order 12291.

#### Paperwork Reduction Act of 1980

The following sections contain information collection requirements which have been approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980 and assigned control number 0915-0108: §§ 60.7, 60.8(a)(5) and (b)(3), 60.11(e), 60.14(a)(2), 60.32(c)(3)(ii), 60.33(c), (e) and (g), 60.34(b) and (c), 60.35(a)(1) and (2), 60.35(c)(3), 60.37(a), 60.38(a), 60.40(a) and (c)(1), (2), (3) and (4), 60.42(a)(1), (d) and (e), 60.51, 60.51(d) and (f)(2), 60.52(a)(1), 60.53, 60.56(a) and (c), and 60.61(a) and (b).

#### List of Subjects in 42 CFR Part 60

Educational study programs, Medical and dental schools, Health professions, Reporting and recordkeeping requirements, Loan programs—education, Student aid, Loan programs—health.

Accordingly, 42 CFR Part 60 is amended as set forth below:

(Catalog of Federal Domestic Assistance, No. 13.108, Health Education Assistance Loan Program)

Dated: October 23, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Approved: December 16, 1986.

Otis B. Bowen,

Secretary.

### PART 60—HEALTH EDUCATION ASSISTANCE LOAN PROGRAM

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

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 727-739 of the Public Health Service Act, 90 Stat. 2243, as amended, 93 Stat. 582, 99 Stat. 529-532 (42 U.S.C. 294-294i).

2. In § 60.1, paragraph (c) is revised and a new paragraph (d) is added to read as follows:

#### § 60.1 What is the HEAL program?

(c) The Secretary insures each lender for the losses it may incur in the event that a borrower dies, becomes disabled, files bankruptcy, or defaults on his or her loan. If a borrower defaults on a loan and the lender has complied with all HEAL statutes and regulations, and with the lender's insurance contract, and the Secretary pays the amount of loss to the lender, the borrower's loan is then assigned to the Secretary. Only at that time, the United States Government becomes the borrower's direct creditor and will actively pursue the borrower for repayment of the debt, including reporting the borrower's default on the loan to consumer credit reporting agencies or to the Internal Revenue Service for purposes of locating such taxpayer or for income tax refund offset, and referral to the Department of Justice for litigation.

(d) Any person who knowingly makes a false statement or misrepresentation in a HEAL loan transaction, bribes or attempts to bribe a Federal official, fraudulently obtains a HEAL loan, or commits any other illegal action in connection with a HEAL loan is subject to possible fine and imprisonment under Federal statute.

3. In § 60.5, paragraph (g) is revised, existing paragraph (h) is redesignated as (i), and a new paragraph (h) is added to read as follows:

#### § 60.5 Who is an eligible student borrower?

(g) He or she must agree that all funds received under the proposed loan will be used solely for tuition, other reasonable educational expenses, including fees, books, supplies and

equipment, and laboratory expenses, reasonable living expenses, reasonable transportation costs (only to the extent that they are directly related to the borrower's education), and the HEAL insurance premium.

(h) He or she must require the loan to pursue the course of study at the school. This determination of the maximum amount of the loan will be made by the school, applying the considerations in § 60.51(f).

4. In § 60.7, existing paragraphs (a)(2), (a)(3), (c)(2), (c)(3), and (c)(4) are redesignated as (a)(3), (a)(5), (c)(3), (c)(4) and (c)(5), respectively, new paragraphs (a)(2), (a)(4), (c)(2), and (c)(6) are added and newly designated paragraph (a)(3)(iii) is revised, as follows:

**§ 60.7 The loan application process.**

(a) \* \* \*

(2) The student applicant must be informed of the Federal debt collection policies and procedures in accordance with the Department's Claims Collection Regulation (45 CFR Part 30) prior to the student receiving the loan. The applicant must sign a certification statement attesting that the applicant has been notified of the actions the Federal Government can take in the event that the applicant fails to meet the scheduled payments. This signed statement must be maintained by the school and the lender as part of the borrower's official record.

(3) \* \* \*

(iii) The total financial resources that are actually available to the applicant for his or her costs of education for the period covered by the proposed HEAL loan, as determined in accordance with § 60.51(f), and other student aid that the applicant has received or will receive for the period covered by the proposed HEAL loan.

(4) The student applicant must certify on the application that the information provided reflects the applicant's total financial resources actually available for his or her costs of education for the period covered by the proposed HEAL loan and the applicant's total indebtedness, and that the applicant has no other financial resources that are available to the applicant or that the applicant will receive for the period covered by the proposed HEAL loan.

(c) \* \* \*

(2) The nonstudent applicant must be informed of the Federal debt collection policies and procedures in accordance with the Department's Claims Collection Regulation (45 CFR Part 30) prior to the nonstudent receiving the loan. The

applicant must sign a certification statement attesting that the applicant has been notified of the actions the Federal Government and the lender can take in the event that the applicant fails to meet the scheduled payments. This signed statement will be maintained by the lender as part of the borrower's official record.

(6) The nonstudent applicant must certify on the application that the information provided reflects the applicant's total financial resources and indebtedness.

5. In § 60.8, paragraphs (a)(3), (a)(5), (a)(11), (b)(3) introductory text, and (b)(5) are revised to read as follows:

**§ 60.8 What are the borrower's major rights and responsibilities?**

(a) \* \* \*

(3) A lender must disburse HEAL loan proceeds as described in § 60.33(f).

(5) If the loan is sold from one lender to another lender, or if the loan is serviced by a party other than the lender, the holder must notify the borrower within 30 days of the transaction.

(11) To assist the borrower in avoiding default, the lender may grant the borrower forbearance. Forbearance, including circumstances in which the lender must grant forbearance, is more fully described in § 60.37.

(b) \* \* \*

(3) The borrower must immediately notify the lender in writing in the event of:

(5) A borrower may not have a HEAL loan discharged in bankruptcy during the first 5 years of the repayment period. This prohibition against the discharge of a HEAL loan applies to bankruptcy under any chapter of the Bankruptcy Act, including Chapter 13. A borrower may have a HEAL loan discharged in bankruptcy after the first 5 years of the repayment period only upon a finding by the Bankruptcy Court that the non-discharge of such debt would be unconscionable and upon the condition that the Secretary shall not have waived his or her rights to reduce any Federal reimbursements or Federal payments for health services under any Federal law in amounts up to the balance of the loan.

6. In § 60.10, paragraph (a) introductory text is revised to read as follows:

**§ 60.10 How much can be borrowed?**

(a) *Student borrower.* An eligible student may borrow an amount to be used solely for expenses, as described in § 60.5(g), incurred or to be incurred over a period of up to an academic year and disbursed in accordance with § 60.33(f). The maximum amount he or she may receive for that period shall be determined by the school in accordance with § 60.51(f) within the following limitations:

7. In § 60.11, paragraph (e) is revised to read as follows:

**§ 60.11 Terms of repayment.**

(e) *Repayment schedule agreement.* At least 30 and not more than 60 days before the commencement of the repayment period, a borrower must contact the holder of the loan to establish the precise terms of repayment. The borrower may select a monthly repayment schedule with substantially equal installment payments or a monthly repayment schedule with graduated installment payments that increase in amount over the repayment period. If the borrower does not contact the lender and does not respond to contacts from the lender, the lender may establish a monthly repayment schedule with substantially equal installment payments, subject to the terms of the borrower's HEAL note.

8. Section 60.14 is amended by revising paragraphs (a)(1) and (a)(2), redesignating (a)(3) and (a)(4) as (a)(4) and (a)(5), respectively, and adding new paragraph (a)(3) to read as follows:

**§ 60.14 The insurance premium.**

(a) *General.* (1) The Secretary insures each lender of a HEAL loan against losses it may suffer if the borrower defaults on the loan, dies, or becomes totally or permanently disabled, or the loan is discharged in bankruptcy. For this insurance, the Secretary will charge the lender an insurance premium. The insurance premium is due to the Secretary on the date of disbursement of the HEAL loan.

(2) The lender may charge the borrower an amount equal to the cost of the insurance premium. The cost of the insurance premium may be charged to the borrower by the lender in the form of a one-time special charge with no subsequent adjustments required. The lender may bill the borrower separately for the insurance premium or may deduct an amount attributable to it from the loan proceeds before the loan is disbursed. In either case, the lender

must clearly identify to the borrower the amount of the insurance premium and the method of calculation.

(3) If the lender does not pay the insurance premium on or before 30 days after disbursement of the loan, a late fee will be charged on a daily basis at the same rate as the interest rate that the lender charges for the HEAL loan for which the insurance premium is past due. The lender may not pass on this late fee to the borrower.

9. Section 60.15 is amended by revising paragraph (a) to read as follows:

**§ 60.15 Other charges to the borrower.**

(a) *Late charges.* If the borrower fails to pay all of a required installment payment or fails to provide written evidence that verifies eligibility for the deferment of the payment within 30 days after the payment's due date, the lender will require that the borrower pay a late charge. A late charge must be equal to 5 percent of the unpaid portion of the payment due.

10. Section 60.19 is revised to read as follows:

**§ 60.19 Forms.**

All HEAL forms are approved by the Secretary and may not be changed without prior approval by the Secretary. HEAL forms shall not be signed in blank by a borrower, a school, a lender, or an agent of any of these. The Secretary may prescribe who must complete the forms, and when and to whom the forms must be sent. All HEAL forms must contain a statement that any person who knowingly makes a false statement or misrepresentation in a HEAL loan transaction, bribes or attempts to bribe a Federal official, fraudulently obtains a HEAL loan, or commits any other illegal action in connection with a HEAL loan is subject to possible fine and imprisonment under Federal statute.

11. The introductory paragraph in § 60.20 is revised to read as follows:

**§ 60.20 The Secretary's collection efforts after payment of a default claim.**

After paying a default claim on a HEAL loan, the Secretary attempts to collect from the borrower and any valid endorser in accordance with the Federal Claims Collection Standards (4 CFR Parts 101 through 105), the Office of Management and Budget Circular A-129, issued May 9, 1985, and the Department's Claims Collection Regulation (45 CFR Part 30). The Secretary attempts collection of all unpaid principal, interest, penalties, administrative costs, and other charges

or fees, except in the following situations:

12. Section 60.31 is amended by revising paragraph (a), redesignating paragraph (c) as (d), and adding a new paragraph (c) to read as follows:

**§ 60.31 The application to be a HEAL lender.**

(a) In order to be a HEAL lender, an eligible organization must submit an application to the Secretary annually.

(c) The applicant must develop and follow written procedures for servicing and collecting HEAL loans. These procedures must be reviewed during the biennial audit required by § 60.42(d). If the applicant uses procedures more stringent than those required by §§ 60.34 and 60.35 for its other loans of comparable dollar value, on which it has no Federal, State, or other third party guarantee, it must include those more stringent procedures in its written procedures for servicing and collecting its HEAL loans.

13. Section 60.32 is amended by revising paragraph (a)(2), redesignating paragraph (c) as (c)(1), and adding new paragraphs (c)(2) and (c)(3) to read as follows:

**§ 60.32 The HEAL lender insurance contract.**

(2) HEAL insurance, however, is not unconditional. The Secretary issues HEAL insurance on the implied representations of the lender that all the requirements for the initial insurability of the loan have been met. HEAL insurance is further conditioned upon compliance by the holder of the loan with the HEAL statute and regulations, the lender's insurance contract, and its own loan management procedures set forth in writing pursuant to § 60.31(c). The contract may contain a limit on the duration of the contract and the number or amount of HEAL loans a lender may make or hold. Each HEAL lender has either a standard insurance contract or a comprehensive insurance contract with the Secretary, as described below.

**(c) Comprehensive insurance contract. (1)**

(2) The Secretary will revoke the comprehensive contract of any lender who utilizes procedures which are inconsistent with the HEAL statute and regulations, the lender's insurance contract, or its own loan management procedures set forth in writing pursuant to § 60.31(c), and require that such

lenders disburse HEAL loans only under a standard contract. When the Secretary determines that the lender is in compliance with the HEAL statute and regulations and its own loan management procedures set forth in writing pursuant to § 60.31(c), the lender may reapply for a comprehensive contract.

(3)(i) From the total insurance authority for any fiscal year the Secretary may set aside a percentage to be used to provide comprehensive contracts to lenders who will make HEAL loans at a rate of interest which remains for the full term of the loan at least one-half percentage point below the maximum permitted under § 60.13. The Secretary will announce the amount set aside for this purpose by a notice published in the *Federal Register* at or near the beginning of the Federal fiscal year. The amount set aside will remain available for this purpose until December 31 of the announced fiscal year or until it is exhausted, whichever occurs first. Any portion of this amount not used for this purpose by December 31 will be made generally available after December 31. If at any time during the fiscal year, the Secretary receives an application during the same week from a lender who will make a HEAL loan at a rate of interest at least one-half percentage point below the maximum permitted rate and from a lender who will make loans at the maximum rate, and there is authority sufficient to enter into only one of the two proposed contracts, the former applicant will receive a contract. A comprehensive contract made with a lender who agrees to make loans at an interest rate at least one-half percentage point below the maximum permissible rate will except from insurance coverage any loan made at a higher interest rate and any loan for which the borrower must meet special conditions or make special payments which are not required of HEAL borrowers generally.

(ii) Lenders receiving contracts under paragraph (c)(3)(i) of this section must notify loan applicants and schools at the time of application that they are making HEAL loans at a rate of interest at least one-half percentage point below the maximum permissible.

14. Section 60.33 is amended by revising the introductory paragraph, redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively, adding new paragraphs (c) and (g), and revising redesignated paragraphs (e)(1) and (f)(1) (i) and (ii) and (f)(2) to read as follows:

**§ 60.33 Making a HEAL loan.**

The loan-making process includes the processing of necessary forms, the approval of a borrower for a loan, determination of a borrower's creditworthiness, the determination of the loan amount (not to exceed the amount approved by the school), the explanation to a borrower of his or her responsibilities under the loan, the execution of the promissory note, and the disbursement of the loan proceeds. A lender may rely in good faith upon statements of an applicant and the HEAL school contained in the loan application papers, except where those statements are in conflict with information obtained from the report on the applicant's credit history, or other information available to the lender. Except where the statements are in conflict with information obtained from the applicant's credit history or other information available to the lender, a lender making loans to nonstudent borrowers may rely in good faith upon statements by the borrower and authorizing officials of internship, residency, or other programs for which a borrower may receive a deferment.

(c) *Lender determination of the borrower's creditworthiness.* The lender may make HEAL loans only to an applicant that the lender has determined to be creditworthy. This determination must be made at least once for each academic year during which the applicant applies for a HEAL loan. An applicant will be determined to be "creditworthy" if he or she has a repayment history that has been satisfactory on any loans on which payments have become due. The lender may not determine that an applicant is creditworthy if the applicant is currently in default on any loan (commercial, consumer, or educational) until the delinquent account is made current or satisfactory arrangements are made between the affected lender(s) and the HEAL applicant. The lender must obtain documentation, such as a letter from the authorized official(s) of the affected lender(s) or a corrected credit report indicating that the HEAL applicant has taken satisfactory actions to bring the account into good standing. It is the responsibility of the HEAL loan applicant to assure that the lender receives each such documentation. No loan may be made to an applicant who is delinquent on any Federal debt until the delinquent account is made current or satisfactory arrangements are made between the affected agency and the HEAL applicant. The lender must receive a letter from the authorized

Federal official of the affected Federal agency stating that the borrower has taken satisfactory actions to bring the account into good standing. It is the responsibility of the loan applicant to assure that the lender has received each such letter. The absence of any previous credit, however, is not an indication that the applicant is not creditworthy and is not to be used as a reason to deny the status of creditworthy to an applicant. The lender must determine the creditworthiness of the applicant using, at a minimum, the following:

(1) A report of the applicant's credit history obtained from an appropriate consumer credit reporting agency, which must be used in making the determinations required by paragraph (c) of this section; and

(2) For student applicants only, the certification made by the applicant's school under § 60.51(e).

(e) *Promissory note.* (1) Each loan must be evidenced by a promissory note approved by the Secretary. A lender must obtain the Secretary's prior approval of the note form before it makes a HEAL loan evidenced by a promissory note containing any deviation from the provisions of the form most currently approved by the Secretary. The lender must give the borrower a copy of each executed note.

(f) \*\*\*

(1) \*\*\*

(i) To a student borrower, by means of a check or draft payable jointly to the student borrower and the HEAL school. Except where a lender is also a school, a lender must mail the check or draft to the school. A lender may not disburse the loan proceeds earlier than is reasonably necessary to meet the cost of education for the period for which the loan is made.

(ii) To a nonstudent borrower, by means of a check or draft payable to the borrower. However, when a previous loan is held by a different lender, the current lender must make the HEAL loan disbursement check or draft payable jointly to the borrower and the holder of the previous HEAL loan for which interest is payable.

(2) Effective July 1, 1987, a lender must disburse the HEAL loan proceeds in two or more installments unless the loan is intended to cover a period of no more than one-half an academic year. The amount disbursed at one time must correspond to the borrower's educational expenses for the period for which the disbursement is made, and must be indicated by the school on the borrower's application. If the loan is

intended for more than one-half an academic year, the school must indicate on the borrower's application both the approximate dates of disbursement and the amount the borrower will need on each such date. In no case may the lender disburse the proceeds earlier than is reasonably necessary to meet the costs of education for the period for which the disbursement or the loan is made.

(g) If the lender determines that the applicant is not creditworthy, pursuant to paragraph (c) of this section, the lender must not approve the HEAL loan request. If the applicant is a student, the lender must notify the applicant and the applicant's school named on the application form of the denial of a HEAL loan, stating the reason for the denial.

15. Section 60.34 is amended by revising the section heading and paragraph (b)(1), and adding a new introductory paragraph and new paragraphs (c) and (d) to read as follows:

**§ 60.34 HEAL loan account servicing.**

HEAL loan account servicing involves the proper maintenance of records, and the proper review and management of accounts. Generally accepted account servicing standards ensure that collections are received and accounted for, delinquent accounts are identified promptly, and reports are produced comparing actual results to previously established objectives.

(b) *Conversion of loan to repayment status.* (1) At least 30 and not more than 60 days before the commencement of the repayment period, the lender must contact the borrower in writing to establish the terms of repayment. Lenders may not charge borrowers for the additional interest or other charges, penalties, or fees that accrue when a lender does not contact the borrower within this time period and a late conversion results.

(c) *Borrower contacts.* The lender must notify each borrower by a written contact, which has an address correction request on the envelope, of the balance owed for principal, interest, insurance premiums, and any other charges or fees owed to the lender, at least every 6 months from the time the loan is disbursed. The lender must use this notice to remind the borrower of the option, without penalty, to pay all or part of the principal and accrued interest at any time.

(d) *Skip-tracing.* If, at any time, the lender is unable to locate a borrower,

the lender must initiate skip-tracing procedures as described in § 60.35(a)(2).

16. Section 60.35 is amended by revising paragraphs (a) and (b), redesignating paragraphs (c) and (e) as paragraphs (e) and (f), respectively, adding a new paragraph (c), and revising paragraph (d) to read as follows:

**§ 60.35 HEAL loan collection.**

(a)(1) When a borrower is delinquent in making a payment, the lender must remind the borrower within 15 days of the date the payment was due by means of a written contact. If payments do not resume, the lender must contact both the borrower and any endorser at least 3 more times at regular intervals during the 120-day delinquent period following the first missed payment of that 120-day period. The second demand notice for a delinquent account must inform the borrower that the continued delinquent status of the account will be reported to consumer credit reporting agencies if payment is not made. Each of the required four contacts must consist of at least a written contact which has an address correction request on the envelope. The last contact must consist of a telephone contact, in addition to the required letter, unless the borrower cannot be contacted by telephone. The lender may choose to substitute a personal contact for a telephone contact. A record must be made of each attempt to contact and each actual contact, and that record must be placed in the borrower's file. Each contact must become progressively firmer in tone. If the lender is unable to locate the borrower and any endorser at any time during the period when the borrower is delinquent, the lender must initiate the skip-tracing procedures described in paragraph (a)(2) of this section.

(2) If the lender is unable to locate either the borrower or the endorser at any time, the lender must initiate and use skip-tracing activities which are at least as extensive and effective as those it uses to locate borrowers delinquent in the repayment of its other loans of comparable dollar value. To determine the correct address of the borrower, these skip-tracing procedures should include, but need not be limited to, contacting any other individual named on the borrower's HEAL application or promissory note, using such sources as telephone directories, city directories, postmasters, drivers license records in State and local government agencies, records of members of professional associations, consumer credit reporting agencies, skip locator services, and records at any school attended by the

borrower. All skip-tracing activities used must be documented. This documentation must consist of a written record of the action taken and its date and must be presented to the Secretary when requesting preclaim assistance or when filing a default claim for HEAL insurance.

(b) When a borrower is 90 days delinquent in making a payment, the lender must immediately request preclaim assistance from the Public Health Service. The Secretary does not pay a default claim if the lender fails to request preclaim assistance.

(c) Prior to the filing of a default claim, a lender must use, at a minimum, collection practices that are at least as extensive and effective as those used by the lender in the collection of its other loans. These practices must include, but need not be limited to:

(1) Using collection agents, which may include its own collection department or other internal collection agents;

(2) Immediately notifying an appropriate consumer credit reporting agency regarding accounts overdue by more than 60 days; and

(3) The use of litigation, after collection attempts have failed, in accordance with the procedures the lender uses in the collection of its other loans of comparable dollar value, as described in the procedures set forth in writing pursuant to § 60.31(c).

(d) If the Secretary's preclaim assistance locates the borrower, the lender must implement the loan collection procedures described in this section. When the Secretary's preclaim assistance is unable to locate the borrower, a default claim may be filed by the lender as described in § 60.40. The Secretary does not pay a default claim if the lender has not complied with the HEAL statute and regulations or the lender's insurance contract.

17. In § 60.37, paragraphs (a) and (b) are revised and a new paragraph (c)(4) is added to read as follows:

**§ 60.37 Forbearance.**

(a) "Forbearance" means an extension of time for making loan payments or the acceptance of smaller payments than were previously scheduled to prevent a borrower from defaulting on his or her payment obligations. A lender must notify each borrower of the right to request forbearance.

(1) Except as provided in paragraph (a)(2) of this section, a lender must grant forbearance whenever the borrower is temporarily unable to make scheduled payments on a HEAL loan and the borrower continues to repay the loan in

an amount commensurate with his or her ability to repay the loan. Any circumstance which affects the borrower's ability to repay the loan must be fully documented.

(2) If the lender determines that the default of the borrower is inevitable and that forbearance will be ineffective in preventing default, the lender may submit a claim to the Secretary rather than grant forbearance. If the Secretary is not in agreement with the determination of the lender, the claim will be returned to the lender as disapproved and forbearance must be granted.

(b) A lender must exercise forbearance in accordance with terms that are consistent with the 25- and 33-year limitations on the length of repayment (described in § 60.11) if the lender and borrower agree in writing to the new terms. Each forbearance period may not exceed 6 months.

(c) \* \* \*

(4) The total period of forbearance (with or without interruption) granted by the lender to any borrower must not exceed 2 years. However, when the borrower and the lender believe that there are bona fide reasons why this period should be extended, the lender may request a reasonable extension beyond the 2-year period from the Secretary. This request must document the reasons why the extension should be granted. The lender may grant the extension for the approved time period if the Secretary approves the extension request.

18. In § 60.38, paragraph (a) is revised to read as follows:

**§ 60.38 Assignment of a HEAL loan.**

(a) *Procedure.* A HEAL note assigned from one lender to another must be subject to a blanket endorsement together with other HEAL notes being assigned or must individually bear effective words of assignment. Either the blanket endorsement or the HEAL note must be signed and dated by an authorized official of the seller. Within 30 days of the transaction, the buyer must notify the following parties of the assignment:

(1) The Secretary;

(2) The borrower. The notice to the borrower must contain a clear statement of all the borrower's rights and responsibilities which arise from the assignment of the loan, including a statement regarding the consequences of making payments to the seller subsequent to receipt of the notice; and

(3) The borrower's school, as shown on the application form supporting the

loan purchased by the buyer, if the borrower is enrolled in school.

19. In § 60.40, paragraphs (a) and (c) are revised to read as follows:

**§ 60.40 Procedures for filing claims.**

(a) A lender must file an insurance claim on a form approved by the Secretary. The lender must attach to the claim all documentation necessary to litigate a default, including any documents required to be submitted by the Federal Claims Collection Standards, and which the Secretary may require. Failure to submit the required documentation and to comply with the HEAL statute and regulations or the lender's insurance contract will result in a claim not being honored. The Secretary may deny a claim that is not filed within the period specified in this section. The Secretary requires for all claims at least the following documentation:

- (1) The original promissory note;
- (2) An assignment to the United States of America of all right, title, and interest of the lender in the note;
- (3) The loan application;
- (4) The history of the loan activities from the date of loan disbursement through the date of claim, including any payments made; and
- (5) A Borrower Status Form (HRSA-508), documenting each deferment granted under § 60.12 or a written statement from an appropriate official stating that the borrower was engaged in an activity for which he or she was entitled to receive a deferment at the time the deferment was granted.

(c) In addition, the lender must comply with the following requirements for the filing of default, death, disability, and bankruptcy claims:

(1) *Default claims.* (i) If a lender determines that it is not appropriate to file suit against a defaulted borrower pursuant to § 60.35(c)(3), it must file a default claim with the Secretary within 30 days after a loan has been determined to be in default. "Default" means the persistent failure of the borrower to make a payment when due or to comply with other terms of the note or other written agreement evidencing a loan under circumstances where the Secretary finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay the loan. In the case of a loan repayable (or on which interest is payable) in monthly installments, this failure must have persisted for 120 days. In the case of a loan repayable (or on which interest is payable) in less frequent installments,

this failure must have persisted for 180 days.

(ii) In addition to the documentation required for all claims, the lender must submit with its default claim at least the following:

- (A) Repayment schedule(s);
- (B) A collection history, if any;
- (C) A final demand letter;
- (D) The original or a copy of all correspondence relevant to the HEAL loan to or from the borrower (whether received by the original lender, a subsequent holder, or an independent servicing agent); and
- (E) A claims collection litigation report.

(iii) If the lender files a default claim on a loan and subsequently receives a notice of the first meeting of creditors in the borrower's bankruptcy, the lender must forward that notice within 10 days to the Secretary. If the Secretary has not paid the claim at the time the lender receives that notice, upon receipt of the notice, the lender must file with the bankruptcy court a proof of claim, if applicable, and an objection to the discharge or compromise of the HEAL loan. If the Secretary has paid the claim, the lender must file a statement to that effect with the court.

(2) *Death claims.* A lender must file a death claim with the Secretary within 30 days after the lender obtains documentation that a borrower is dead. In addition to the documentation required for all claims, the lender must submit with its death claim those documents which verify the death, including an official copy of the Death Certificate.

(3) *Disability claims.* A lender must file a disability claim with the Secretary within 30 days after it has been notified that the Secretary has determined a borrower to be totally and permanently disabled. In addition to the documentation required for all claims, the lender must submit with its claim evidence of the Secretary's determination that the borrower is totally and permanently disabled.

(4) *Bankruptcy claims.* A lender must file a bankruptcy claim with the Secretary within 30 days after the lender receives a notice of the first meeting of creditors in a borrower's bankruptcy proceeding, except that if the bankruptcy proceeding is under Chapter 13 (the so-called "Wage-Earner Plan") of the Bankruptcy Act, the lender must file a bankruptcy claim with the Secretary within 10 days of receipt of court notice of the pending action. The lender must file with the bankruptcy court a proof of claim, if applicable, and an objection to the discharge or compromise of the HEAL loan. In addition to the

documentation required for all claims, with its claim the lender must submit to the Secretary at least the following:

- (i) Repayment schedule(s);
- (ii) A collection history, if any;
- (iii) A proof of claim, where applicable;
- (iv) An assignment to the United States of America of its proof of claim, where applicable;
- (v) All pertinent documents sent to or received from the bankruptcy court; and
- (vi) A statement of any facts of which the lender is aware that may form the basis for an objection to the bankrupt's discharge or an exception to the discharge.

20. In § 60.42, the heading of the section and paragraph (a)(1) introductory text and (a)(1)(viii) and (ix) are revised, and paragraph (a)(1)(x), (a)(4), (d) and (e) are added to read as follows:

**§ 60.42 Records, reports, inspection, and audit requirements for HEAL lenders.**

(a) *Records.* (1) A lender must keep complete and accurate records of each HEAL loan which it holds. The records must be organized in a way that permits them to be easily retrievable and allows the ready identification of the current status of each loan. The required records include:

- (viii) The documents required for the exercise of forbearance;
- (ix) Documentation of the assignment of the loan; and
- (x) Evidence of a borrower's creditworthiness, including the borrower's credit report.

(4) The lender must maintain accurate and complete records on each HEAL borrower and related school activities required by the HEAL program. All HEAL records shall be maintained under security and protected from fire, flood, water leakage, other environmental threats, electronic data system failures or power fluctuations, unauthorized intrusion for use, and theft.

(d) The lender must comply with the Department's biennial audit requirements of section 705 of the Act.

(e) Any lender who has information which indicates potential or actual commission of fraud or other offenses against the United States, involving these loan funds, must promptly provide this information to the appropriate Regional Office of Inspector General for Investigations.

21. In § 60.50, paragraph (a)(2)(ii)(F) is revised to read as follows:



**§ 60.50 Which schools are eligible to be HEAL schools?**

- (a) \* \* \*
- (2) \* \* \*
- (ii) \* \* \*

(F) Council on Podiatric Medical Education.

\* \* \* \* \*

22. Section 60.51 is revised to read as follows:

**§ 60.51 The student loan application.**

When the student completes his or her portion of the student loan application and submits it to the school, the school must do the following:

- (a) Accurately and completely fill out its portion of the HEAL application;
- (b) Verify, to the best of its ability, the information provided by the student on the HEAL application, including, but not limited to, citizenship status and Social Security number. To comply with this requirement, the school may request that the student provide a certified copy of his or her birth certificate, his or her naturalization papers, and an original Social Security card or copy issued by the Federal Government, or other documentation that the school may require. The school must assure that the applicant's I-151 or I-551 is attached to the application, if the applicant is required to possess such identification by the United States;
- (c) Certify that the student is eligible to receive a HEAL loan, according to the requirements of § 60.5;

(d) Review the financial aid transcript from each institution previously attended by the applicant on at least a half-time basis to determine whether the applicant is in default on any loans or owes a refund on any grants. The school may not approve the HEAL application or disburse HEAL funds if the borrower is in default on any loans or owes a refund on any educational grants, unless satisfactory arrangements have been made between the borrower and the affected lender or school to resolve the default or the refund on the grant. If the financial aid transcript has been requested, but has not been received at the time the applicant submits his or her first HEAL application, the school may approve the application and disburse the first HEAL installment prior to receipt of the transcript. Each financial aid transcript must include at least the following data:

- (1) Student's name;
- (2) Amounts and sources of loans and grants previously received by the student for study at an institution of higher education;
- (3) Whether the student is in default on any of these loans, or owes a refund on any grants;

(4) Certification from each institution attended by the student that the student has received no financial aid, if applicable; and

(5) From each institution attended, the signature of an official authorized by the institution to sign such transcripts on behalf of the institution.

(e) State that it has no reason to believe that the borrower may not be willing to repay the HEAL loan;

(f) Make reasonable determinations of the maximum loan amount approvable, based on the student's circumstances. The student applicant determines the amount he or she wishes to borrow, up to this maximum amount. Only then may the school certify an eligible application. In determining the maximum loan amount approvable, the school will calculate the difference between:

(1) The total financial resources available to the applicant for his or her costs of education for the period covered by the proposed HEAL loan, and other student aid that the applicant has received or will receive during the period covered by the proposed HEAL loan. To determine the total financial resources available to the applicant for his or her costs of education for the period covered by the proposed HEAL loan (including familial, spousal, or personal income or other financial assistance that the applicant has received or will receive), the school must consider information provided through one of the national need analysis systems or any other procedure approved by the Secretary of Education and published under 34 CFR 674.13, in addition to any other information which the school has regarding the student's financial situation. The school may make adjustments to the need analysis information only when necessary to accurately reflect the applicant's actual resources, and must maintain in the borrower's record documentation to support the basis for any adjustments to the need analysis information; and

(2) The costs reasonably necessary for each student to pursue the same or similar curriculum or program within the same class year at the school for the period covered by the proposed HEAL loan, using a standard student budget. The school must maintain in its general office records the criteria used to develop each standard student budget. Adjustments to the standard student budget may be made only to the extent that they are necessary for the student to complete his or her education, and documentation must be maintained in the borrower's record to support the basis for any adjustments to the standard student budget.

(g) Comply with the requirements of § 60.61.

23. In § 60.52, paragraph (a) is removed, paragraphs (b) and (c) are redesignated as (a) and (b), respectively, and newly designated paragraph (a)(1) is revised to read as follows:

**§ 60.52 The student's loan check.**

(a) \* \* \*

(1) If the school receives the instrument after the student is enrolled, obtain the student's endorsement, retain that portion of funds due the school, and disburse the remaining funds to the student.

\* \* \* \* \*

24. Section 60.53 is revised to read as follows:

**§ 60.53 Notification to lender of change in enrollment status.**

Each school must notify the holder of a HEAL loan of any change in the student's enrollment status within 30 days following the change in status. Each notice must contain the student's full name under which the loan was received, the student's current name (if different), the student's Social Security number, the date of the change in the enrollment status, or failure to enroll as scheduled for any academic period as a full-time student, the student's latest known permanent and temporary addresses, and other information which the school may decide is necessary to identify or locate the student. If the school does not know the identity of the current holder of the HEAL loan, it must notify the HEAL Program Office of a change in the student's enrollment status. This notification is not required for vacation periods and leaves of absence or other temporary interruptions which do not exceed one academic term.

25. Section 60.56 is amended by revising paragraphs (a) introductory text and (a)(4), by redesignating paragraphs (a)(9) and (a)(10) as (a)(17) and (a)(18), respectively, and adding new paragraphs (a)(9) through (a)(16), (c), and (d) and by revising newly designated (a)(18) to read as follows:

**§ 60.56 Records.**

(a) In addition to complying with the requirements of section 739(b) of the Act, each school must maintain an accurate, complete, and easily retrievable record with respect to each student who has a HEAL loan. The record must contain all of the following information:

\* \* \* \* \*

(4) Amount and source of other financial assistance received by the

student during the period for which the HEAL loan was made;

(9) Photocopy of each HEAL check or draft received by the student;

(10) Documentation of each entrance interview, including the date of the entrance interview and the signature of the borrower indicating that the entrance interview was conducted;

(11) Documentation of the exit interview, including the date of the exit interview and the signature of the borrower indicating that the exit interview was conducted, or documentation of the date that the school mailed exit interview materials to the borrower if the borrower failed to report for the exit interview;

(12) A photocopy made by the school of the borrower's I-151 or I-551, if the borrower is required to possess such identification by the United States, or other documentation, if obtained by the school, to verify citizenship status and Social Security number (e.g., a certified copy of the borrower's birth certificate or a photocopy made by the school of the borrower's original Social Security card or copy issued by the Federal Government);

(13) Documentation of the calculations made which compare the financial resources of the applicant with the cost of his or her education at the school;

(14) Copy(s) of the borrower's financial aid transcript(s);

(15) The standard budget used for the student, and documentation to support the basis for any deviations made to the standard budget;

(16) Copies of all correspondence between the school and the borrower or between the school and the lender or its assignee regarding the loan;

(18) Expected postgraduate destination of borrower.

(c) The school must comply with the Department's biennial audit requirements of section 705 of the Act.

(d) The school must develop and follow written procedures for the receipt, verification of amount, and disbursement of HEAL checks or drafts. These procedures must be maintained in the school's policies and procedures manuals or other general office records.

26. In § 60.60, paragraph (c) is revised to read as follows:

**§ 60.60 Limitation, suspension, or termination of the eligibility of a HEAL school.**

(c) This section does not apply to administrative action by the Department

of Health and Human Services based on any alleged violation of The Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended), as governed by 34 CFR Part 99.

27. A new § 60.61 is added to read as follows:

**§ 60.61 Responsibilities of a HEAL school.**

(a) A HEAL school is required to carry out the following activities for each HEAL applicant or borrower:

(1) Conduct and document an entrance interview with each student (individually or in groups) no later than prior to the loan recipient's first HEAL disbursement in each academic year that the loan recipient obtains a HEAL loan. The school must inform the loan recipient during the entrance interview of his or her rights and responsibilities under a HEAL loan, including the consequences for noncompliance with those responsibilities, and must gather personal information which would assist in locating the loan recipient should he or she depart from the school without receiving an exit interview. A school may meet this requirement through correspondence where the school determines that a face-to-face meeting is impracticable.

(2) Conduct and document an exit interview with each HEAL loan recipient (individually or in groups) within the final academic term of the loan recipient's enrollment prior to his or her anticipated graduation date or other departure date from the school. The school must inform the loan recipient in the exit interview of his or her rights and responsibilities under each HEAL loan, including the consequences for noncompliance with those responsibilities. The school must also collect personal information from the loan recipient which would assist the school or the lender in skiptracing activities and to direct the loan recipient to contact the lender concerning specific repayment terms and options. A copy of the documentation of the exit interview, including the personal information collected for skiptracing activities, and any other information required by the Secretary regarding the exit interview must be sent to the lender of each HEAL loan within 30 days of the exit interview. If the loan recipient departs from the school prior to the anticipated date or does not receive an exit interview, the exit interview information must be mailed to the loan recipient by the school within 30 days of the school's knowledge of the departure or the anticipated departure date, whichever is earlier. The school must request that the loan recipient forward any required

information (e.g., skiptracing information, request for deferment, etc.) to the lender. The school must notify the lender of the loan recipient's departure at the same time it mails the exit interview material to the loan recipient.

(3) Verify the accuracy and completeness of information provided by each student on the HEAL loan application, particularly in regard to the HEAL eligibility requirements, by comparing the information with previous loan applications or other records or information provided by the student to the school. Notify the potential lender of any discrepancies which were not resolved between the school and the student.

(4) Develop and implement procedures relating to check receipt and release which keep these functions separate from the application preparation and approval process and assure that the amount of the HEAL loan check(s) does(do) not exceed the approved total amount of the loan and the statutory maximums. Checks must not be cashed without the borrower's personal endorsement. Documentation of these procedures and their usage shall be maintained by the school.

(5) Maintain accurate and complete records on each HEAL borrower and related school activities required by the HEAL program. All HEAL records shall be properly safeguarded and protected from environmental threats and unauthorized intrusion for use and theft.

(6) Maintain documentation of the criteria used to develop the school's standard student budgets in the school's general records, readily available for audit purposes, and maintain in each HEAL borrower's record a copy of the standard budget which was actually used in the determination of the maximum loan amount approvable for the student, as described in § 60.51.

(7) Notify the lender or its assignee of any changes in the student's name, address, status, or other information pertinent to the HEAL loan not more than 30 days after receiving information indicating such a change.

(b) Any school which has information which indicates potential or actual commission of fraud or other offenses against the United States involving these loan funds must promptly provide this information to the appropriate Regional Office of Inspector General for Investigations.

(c) The school will be considered responsible and the Secretary may seek reimbursement from any school for the amount of a loan in default on which the Secretary has paid an insurance claim, if the Secretary finds that the school did

not comply with the applicable HEAL statute and regulations, or its written agreement with the Secretary. The Secretary may excuse certain defects if the school satisfies the Secretary that the defect did not contribute to the default or prejudice the Secretary's attempt to collect the loan from the borrower.

[FR Doc. 87-216 Filed 1-7-87; 8:45 am]

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Federal Register

Vol. 52, No. 5

Thursday, January 8, 1987

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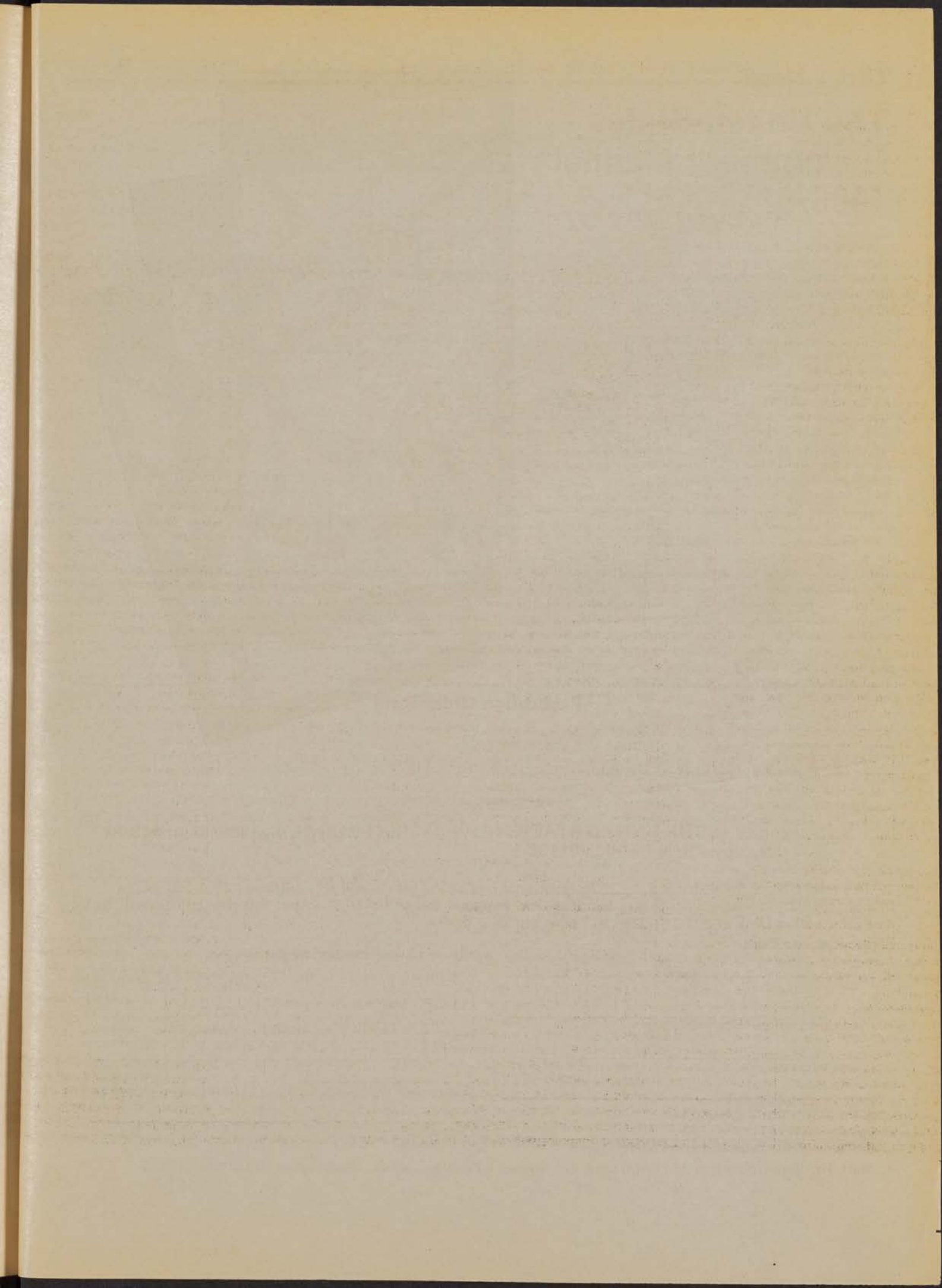
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