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Briefing on How To Use the Federal Register—
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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.

SEATTLE, WA

- WHEN:** February 11; at 9:00 a.m.
- WHERE:** North Auditorium, Fourth Floor, Federal Building, 915 2nd Avenue, Seattle, WA.
- RESERVATIONS:** Call the Portland Federal Information Center on the following local numbers:
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SAN FRANCISCO, CA

- WHEN:** February 12; at 9:00 a.m.
- WHERE:** Room 2007, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.
- RESERVATIONS:** Call the San Francisco Federal Information Center, 415-556-6600

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- WHEN:** February 19; at 9:00 a.m.
- WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
- RESERVATIONS:** Roy Nanovic, 202-523-3187

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Rules and Regulations

Federal Register

Vol. 53, No. 14

Friday, January 22, 1988

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 551

Pay Administration Under the Fair Labor Standards Act; Exemptions

AGENCY: Office of Personnel Management.

ACTION: Interim rule.

SUMMARY: The Office of Personnel Management is publishing an interim rule to revise its Fair Labor Standards Act overtime regulations to bring them into conformity with a court decision. The revisions will: (1) Eliminate the sections concerning the presumption that employees in positions classified at GS-11 and above are exempt (not covered by the overtime provisions of the Act) and the agency-proposed exceptions to the presumption of exemption, and (2) change the criteria for determining whether a Federal employee is an executive under the Act (i.e., an exempt supervisor or manager) to make them more consistent with Labor's criteria for determining that a non-Federal employee is an executive.

DATES: *Effective date:* January 22, 1988.

Comment date: Comments must be received on or before February 22, 1988.

ADDRESS: Send written comments to Michael Clogston, Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, Room 5459, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jack Tapping, (202) 632-4530.

SUPPLEMENTARY INFORMATION:

Background

On June 26, 1987, the United States Court of Appeals for the District of Columbia Circuit vacated two sections

of the regulations in 5 CFR Part 551, as follows:

1. 5 CFR 551.203(c) which provides: (a) For a presumption that any employee in a position classified at GS-11 or above (or the equivalent level in other white collar pay systems) is exempt, and (b) that any agency which properly classifies a position in this grade range has satisfied the burden of proof that the incumbent is exempt.

The Court found that this provision was inconsistent with the meaning, scope, and application of the Act because it places an unwarranted and confusing burden on the employee, who must take the initiative to challenge his exemption.

Consequently, 5 CFR 551.203(c) and a related section, 5 CFR 551.207 (providing for agency-proposed exceptions to the presumption of exemption), are eliminated.

2. 5 CFR 551.204 which provides executive exemption criteria. (The issues the Court raised involve only the introductory text and paragraph (a) of this section.) This section says the requirement that the primary duty of management or supervision is met if an employee meets or exceeds the definition of "supervisor" in the Supervisory Grade Evaluation Guide or meets or exceeds the "Foreman range of responsibility" in the Job Grading Standard for Supervisors. Thus, the executive exemption criteria were tied to, and dependent on, classification under the supervisory classification standards.

The Court found that § 551.204 was "susceptible to a more expansive interpretation" (indicating that exemption was easier to reach) than is possible when applying the comparable Department of Labor (Labor) regulation (29 CFR 541.1). The Court indicated that Labor's executive exemption criteria more narrowly limit the possibility of an "exempt" finding than OPM's executive exemption criteria do. The Court said, for example, that under Labor's executive exemption criteria, an exempt employee must "customarily and regularly" direct the work of others and must manage the entire "enterprise" in which he is employed or at least a "department" thereof.

Although criteria as limiting as Labor's criteria are stated or implied in the supervisory classification standards to which 5 CFR 551.204 refers, these

criteria are not stated in the regulation itself.

Consequently, the revised § 551.204 contains criteria for determining that the primary duty of an employee's work is "executive," without reference to the classification standards or other sources of information. The criteria include language the Court used to exemplify factors it concluded were omitted in the previous regulation, and are more directly consistent with Labor's description of its regulatory criteria for executive exemption.

Waiver of Notice of Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because a court decision vacating certain sections in 5 CFR Part 551 requires immediate implementation.

Waiver of 30-day Delay in Effective Date of Final Regulation

Pursuant to section 553(d)(3) of title 5 of the United States Code, I find that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately because of the need to implement the Court decision mentioned above.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Federal employees.

List of Subjects in 5 CFR Part 551

Administrative practice and procedure, Fair Labor Standards Act, Government employees, Manpower training programs, Travel, Wages.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is issuing interim amendments to Part 551 as follows:

**PART 551—PAY ADMINISTRATION
UNDER THE FAIR LABOR
STANDARDS ACT**

1. The authority citation for Part 551 continues to read as follows:

Authority: Sec. 4(f) of the Fair Labor Standards Act as amended by Pub. L. 93-259 enacted April 8, 1974, 88 Stat. 55; 29 U.S.C. 204(f).

§ 551.203 [Amended]

2. Section 551.203 is amended by: (1) Removing the semicolon at the end of paragraph (b) and adding a period in its place; and (2) by removing paragraph (c).

3. Section 551.204 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 551.204 Executive exemption criteria.

An "executive" employee is a supervisor, foreman, or manager who manages a Federal agency or any subdivision thereof (including the lowest recognized organizational unit with a continuing function) and regularly and customarily directs the work of at least three subordinate employees (excluding support employees) and meets all the following criteria:

(a) The employee's primary duty consists of management or supervision. The primary duty requirement is met if the employee—

(1) Has authority to select or remove, and advance in pay and promote, or make any other status changes of subordinate employees, or has authority to suggest and recommend such actions with particular consideration given to these suggestions and recommendations; and

(2) Customarily and regularly exercises discretion and independent judgment in such activities as work planning and organization; work assignment, direction, review, and evaluation; and other aspects of management of subordinates, including personnel administration.

§ 551.207 [Removed]

§§ 551.208 and 551.209 [Redesignated as §§ 551.207 and 551.208 and Amended]

4. Section 551.207 is removed and §§ 551.208 and 551.209 are redesignated §§ 551.207 and 551.208, respectively. The reference in the new § 551.208(a) to 551.207 is revised to read "551.206". The reference in the new § 551.208(c) to 551.209 is revised to read "551.208". The two references in the new § 551.208(d) to § 551.209 are revised to read "551.208".

[FR Doc. 88-1249 Filed 1-21-88; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

**Animal and Plant Health Inspection
Service**

[Docket No. 87-174]

7 CFR Part 354

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine (PPQ) by adding commuted traveltime allowances in Florida. A commuted traveltime allowance is the time necessary for PPQ employees to travel from their headquarters to their place of duty and return. The Government charges a fee for certain overtime services provided by PPQ employees and, under certain circumstances, the fee may include the cost of commuted traveltime.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT: Paul Eggert, Director, National Administrative and Planning Operations Staff, PPQ, APHIS, USDA, Room 614, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7250.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, Chapter III, and 9 CFR, Chapter I, Subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal products, or other commodities intended for importation into or exportation from the United States. When these services must be provided by an employee of PPQ on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR Part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as is practicable, the time required for PPQ employees to travel to and from their headquarters and the place where they perform the overtime duty.

We are amending § 354.2 of the regulations by adding commuted traveltime allowances between certain locations in Florida. (The amendments are set forth in the rule portion of this document.) This action is necessary to

inform the public of the commuted traveltime between these locations.

**Executive Order 12291 and Regulatory
Flexibility Act**

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; and will 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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the Federal Register.

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 354

Agricultural Commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

Accordingly 7 CFR Part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for Part 354 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by adding, in alphabetical order, the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltimes.

COMMUTED TRAVELTIME ALLOWANCES			
(In hours)			
Location covered	Served from—	Metropolitan area	
		Within	Out-side
Add			
FLORIDA *			
Fort Myers.....	Fort Myers.....		2
Fort Myers.....	Palmetto.....		5

Done in Washington, DC, this 14th day of January, 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-1246 Filed 1-21-88; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 669]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 669 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period January 22 through January 28, 1988. Such action is needed

to balance the supply of fresh navel oranges with the demand for such oranges during the period specified due to the marketing situation confronting the orange industry.

DATES: Regulation 669 (§ 907.969) is effective for the period January 22 through January 28, 1988.

FOR FURTHER INFORMATION CONTACT:

Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2528-S, P.O. Box 96456, Washington, DC 20090-6456. Telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 [7 CFR Part 907], as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

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

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order, and approximately 4,065 producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than \$100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than \$3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

This action is consistent with the marketing policy for 1987-88 adopted by the Navel Orange Administrative

Committee (Committee). The Committee met publicly on January 19, 1988, in Visalia, California, to consider the current and prospective conditions of supply and demand and recommended, by an 8 to 1 vote, a quantity of navel oranges deemed advisable to be handled during the specified week. The Committee reports that the market for navel oranges is steady.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared purposes of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

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

Authority: Secs. 1-9, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 907.969 is added to read as follows:

(This section will not appear in the Code of Federal Regulations.)

§ 907.969 Navel Orange Regulation 669.

The quantity of navel oranges grown in California and Arizona which may be handled during the period January 22, 1988, through January 28, 1988, are established as follows:

(a) District 1: 1,470,000 cartons;

- (b) District 2: 280,000 cartons;
 (c) District 3: Unlimited cartons;
 (d) District 4: Unlimited cartons.

Dated: January 20, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable
 Division, Agricultural Marketing Service.

[FR Doc. 88-1407 Filed 1-21-88; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 597]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 597 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 250,000 cartons during the period January 24 through January 30, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 597 (§ 910.897) is effective for the period January 24 through January 30, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

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

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

This regulation is issued under Marketing Order No. 910, as amended [7 CFR Part 910] regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on January 19, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a 13-0 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market for lemons is weak.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.897 is added to read as follows:

(This section will not appear in the Code of Federal Regulations.)

§ 910.897 Lemon Regulation 597.

The quantity of lemons grown in California and Arizona which may be handled during the period January 24, 1988, through January 30, 1988, is established at 250,000 cartons.

Dated: January 20, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable
 Division, Agricultural Marketing Service.

[FR Doc. 88-1408 Filed 1-21-88; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 911 and 915

Limes and Avocados Grown in Florida; Change in Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule will require Florida lime and avocado handlers to report to the Florida Lime and Avocado Administrative Committees the daily packout of selected sizes of containers sold and delivered in the State of Florida. The information collected will provide these committees with data on the quantities of Florida limes and avocados sold and delivered in Florida. The committees need this information to determine if it is economically beneficial to promote limes and avocados in Florida. The committees work with the Department in administering the marketing agreement and order programs.

EFFECTIVE DATE: February 22, 1988.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone 202-475-3918.

SUPPLEMENTARY INFORMATION:

This rule is issued under Marketing Order No. 911, as amended [7 CFR Part 911], regulating the handling of limes grown in Florida, and Marketing Order No. 915, as amended [7 CFR Part 915], regulating the handling of avocados grown in South Florida. These orders are effective under the Agricultural Marketing Agreement Act, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. 3507], the information collection provisions

that are included in this rule will be submitted for approval to the Office of Management and Budget (OMB). Handlers will not be required to comply with them until OMB approval is obtained.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

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

There are approximately 26 handlers of Florida limes subject to regulation under the Florida lime marketing order, and approximately 263 lime producers in Florida. There are approximately 34 handlers of Florida avocados subject to regulation under the Florida avocado marketing order, and approximately 300 avocado producers in Florida. The majority of these handlers and producers may be classified as small entities.

Notice of this action was contained in a proposed rule issued November 16, 1987, and published in the *Federal Register* [52 FR 44917, November 23, 1987]. Interested persons were invited to submit written comments until December 23, 1987. No comments were submitted.

The reporting requirements were unanimously recommended by the Florida Lime and Avocado Administrative Committees. Such requirements are designed to provide the committees with information necessary to determine the quantity of Florida limes and avocados sold and delivered in Florida. An analysis of such data would be used by the committees to help them decide whether advertising and promotion programs for limes and/or avocados would be cost effective.

The reporting requirements will require all lime and avocado handlers to report their daily packout of limes and avocados, by container type, sold and delivered in Florida. The committees need such information to make a decision on whether or not to implement intrastate promotion and advertising programs for Florida limes and/or avocados. The committees believe that such programs may have the potential to generate new markets for limes and

avocados, but they need to know the quantities of these fruits currently sold and delivered in Florida to decide whether the benefits of such programs would outweigh the costs. They also could use the information to help them maximize the benefits derived from any funds spent on any such promotion and advertising programs.

The actual cost to handlers for complying with this change is expected to be minimal. Lime handlers already are required to report similar information on lime shipments. Hence, this additional requirement that they report intrastate shipments is expected to have little effect on their reporting burden or cost. Likewise, avocado handlers' costs are expected to be affected minimally because most of them already keep information on intrastate avocado shipments for use in making marketing decisions.

Conversely, additional sales resulting from advertising and promotion programs would have the potential of generating increased returns for lime and avocado growers and handlers. On the basis of the foregoing, the impact of these changes on growers and handlers is expected to be beneficial.

The reporting requirements are authorized under § 911.60 of Marketing Order 911, and § 915.60 of Marketing Order 915.

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

After consideration of all available information, including the recommendations of the committees and the proposal set forth in the notice, it is hereby found that this action will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Parts 911 and 915

Marketing agreements and orders, Limes (Florida), Avocados (Florida).

For the reasons set forth in the preamble, 7 CFR Parts 911 and 915 continues to read as follows:

1. The authority citation for both 7 CFR Parts 911 and 915 continues to read as follows:

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

2. Section 911.111 [52 FR 24134, June 29, 1987] is amended by designating the existing paragraph as paragraph (a), and adding a new paragraph (b) to read as follows:

PART 911—LIMES GROWN IN FLORIDA

§ 911.111 Pack-out reports.

(b) Each handler shall, at the end of each day's operation, report to the committee the number of containers of limes sold and delivered in the State of Florida in the following containers: (1) 1/2 Bushel, (2) 3/4 Bushel, and (3) 1 Bushel. Upon request by the committee, such reports shall be confirmed in writing on a weekly basis on a form prescribed by the committee.

3. Section 915.150 is amended by adding a new paragraph (d) to read as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

§ 915.150 Reports.

(d) Each handler shall, at the end of the day's operation, report to the committee the number of containers of avocados sold and delivered in the State of Florida in the following containers: (1) 1/4 Bushel, (2) 1/2 Bushel, and (3) 3/4 Bushel. Upon request by the committee, such reports shall be confirmed in writing on a weekly basis on a form prescribed by the committee.

Dated: January 15, 1988.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 88-1318 Filed 1-21-88; 8:45 am]

BILLING CODE 3410-02-M

Rural Telephone Bank

7 CFR Part 1610

Rural Telephone Bank Loan Policies

AGENCY: Rural Bank, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Rural Telephone Bank (RTB) hereby amends Part 1610 Loan Policies, Chapter XVI in Title 7 of the Code of Federal Regulations by adding one new subsection, 1610.9. Subsection 1610.9 waives the prepayment premium on any RTB loan (or part of a loan) which is prepaid on or after December 22, 1987, but no later than September 30, 1988. This action implements section 1411(b)(2) of Pub. L. 100-203, the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330), signed into law December 22, 1987, which amends section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*). Under present RTB policies and

procedures the mortgage note on RTB loans requires a prepayment premium.

All borrowers prepaying RTB loans on or after December 22, 1987, but no later than September 30, 1988, are affected by this action.

DATES: This interim rule is effective January 21, 1988. Public comments concerning this interim rule must be received by REA no later than February 22, 1988.

ADDRESS: Comments may be mailed to F. Lamont Heppe, Jr., Chief, Loans and Management Branch, Telecommunications Staff Division, Rural Electrification Administration, Room 2823—South Building, U.S. Department of Agriculture, Washington, DC 20250. Comments received may be inspected in Room 2823 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Chief, Loans and Management Branch, Telecommunications Staff Division, Rural Electrification Administration, Room 2823—South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382-9550. The Draft Regulatory Impact Analysis describing the options considered in developing this rule amendment is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This rule is issued in conformity with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of \$100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this rule has been determined to be "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 432 *et seq.* (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and

Loan Guarantees, and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This rule amendment contains no information or recordkeeping requirements which would require approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

Background

Current RTB policies and procedures require a prepayment premium on all RTB loans if a prepayment of principal is made prior to 24 full years from the date of the mortgage note. The amount of the premium is a base amount equal to the interest rate on the note times the prepayment amount, less one twenty-fourth of the base amount for each full year from the date of the mortgage note to the date of the prepayment. The above formula is for 35-year notes. Notes for less than 35 years have a proportionately shorter prepayment premium period. Additional information on prepayments is included in REA Bulletin 320-12 (or 7 CFR Part 1785).

Public Law 100-203, the Omnibus Budget Reconciliation Act of 1987, approved December 22, 1987, amended the Rural Electrification Act to waive the prepayment premium on any RTB loan (or part thereof) prepaid on or after December 22, 1987, but no later than September 30, 1988.

List of Subjects in 7 CFR Part 1610

Loan programs—communications, Telecommunications, Telephone.

PART 1610—[AMENDED]

Therefore, the authority citation for 7 CFR Part 1610 is revised to read as follows:

Authority: 85 Stat. 29 *et seq.*, 7 U.S.C. 941 *et seq.*, as amended at Pub. L. 93-32, 87 Stat. 70 *et seq.* and Pub. L. 100-203, 101 Stat. 1330, *et seq.*

Therefore, REA hereby amends 7 CFR Chapter XVI, Part 1610 by adding the following new § 1610.9:

§ 1610.9 Temporary waiver of prepayment premium.

(a) A borrower may prepay any Bank loan (or any part thereof) by paying the outstanding principal balance thereof, with interest accrued to the date of payment, without being required to pay

the prepayment premium set forth in the note covering such loan, if such prepayment is made on or after December 22, 1987, but no later than September 30, 1988. In accordance with the Rural Electrification Act, no loans may be made or guaranteed by REA or the Bank for the purpose of prepaying Bank loans. This subsection does not affect any requirements of the mortgage between the borrower and the Bank (the "Bank mortgage") providing for ratable payment of loans made by other creditors.

(b) A borrower shall notify the appropriate Area Office in REA when a prepayment is planned, specifying the date for prepayment and the amount of principal involved. This will enable REA to determine the amount of accrued interest. The borrower should allow sufficient time for the transmittal of the prepayment.

(c) A borrower proposing to prepay only a portion of the loans secured by the Bank mortgage should contact the Bank at its earliest opportunity, and in any event, before making the prepayment, if the borrower anticipates that:

(1) Funds for the prepayment will be obtained from another lender and

(2) The lender will request a lien accommodation to secure its loans.

(d) Borrowers are advised that in accordance with current procedures, if a borrower shall elect to rescind all or a portion of an unadvanced Bank loan, the amount of Class B stock held by the borrower in connection with such loan shall be reduced to reflect such rescission and the outstanding balance of such loan shall be adjusted accordingly. Borrowers may consider rescinding Bank loans in connection with prepayment under this subsection.

Dated: January 15, 1988.

Jack Van Mark,

Acting Governor, Rural Telephone Bank.

[FR Doc. 88-1247 Filed 1-21-88; 8:45 am]

BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 1

Revision of Headquarters Office Locations

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its

regulations pertaining to its statement of organization and general information to amend the name of one of its Headquarters Office Buildings and to add two new office locations to its list of offices. This amendment is being made to inform NRC licensees and members of the public of these changes.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: On December 29, 1987 (52 FR 49100), the NRC published a general notice announcing that as of December 21, 1987, several of the NRC's Headquarters Offices (i.e., the Office of Enforcement, the Office of Special Projects, and the Bethesda-based portion of its Office of the General Counsel) had relocated to a new building at One White Flint North in Rockville, Maryland. In addition, a recent reconsolidation of the NRC's Office of Nuclear Regulatory Research (RES) resulted in the acquisition of a portion of a new building and a slight change in the name of the building that formerly housed all of RES. This amendment codifies those changes.

Because this amendment deals solely with the revised location of some of NRC's Headquarters Offices, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). This amendment is effective upon publication in the *Federal Register*. Good cause exists to dispense with the usual 30-day delay in the effective date, because this amendment is of a minor and administrative nature, dealing with the revised location of some of the NRC's Headquarters Offices.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 10 CFR Part 1

Organization and functions.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendment to 10 CFR Part 1.

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 68 Stat. 1242, as amended (42 U.S.C. 5841).

2. In § 1.5, paragraphs (a)(1) through (a)(9) are revised and (a)(10) and (a)(11) are added to read as follows:

§ 1.5 Location of principal offices and Regional Offices.

(a) * * *

(1) Air Rights III Building, 4550 Montgomery Avenue, Bethesda, Maryland.

(2) East West/South Towers Building, 4340 East West Highway, Bethesda, Maryland.

(3) East West/West Towers Building, 4350 East West Highway, Bethesda, Maryland.

(4) Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland.

(5) Matomic Building, 1717 H Street NW, Washington, DC.

(6) Nicholson Lane/North Building, 5620 Nicholson Lane, Rockville, Maryland.

(7) Nicholson Lane/South Building, 5650 Nicholson Lane, Rockville, Maryland.

(8) One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland.

(9) Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

(10) Willste Building, 7915 Eastern Avenue, Silver Spring, Maryland.

(11) Woodmont Building, 8120 Woodmont Avenue, Bethesda, Maryland.

* * * * *

Dated at Bethesda, Maryland, this 12th day of January 1988.

For the Nuclear Regulatory Commission,
Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 88-1277 Filed 1-21-88; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 018CE, Special Conditions No. 23-ACE-18A]

Special Conditions; Petersen Aviation, Inc., Modified Beech Model 33 Series, Model 35 Series, and Model 36 Series Airplanes To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions; Amendment to Special Conditions No. 23-ACE-18.

SUMMARY: This special condition amendment is issued to become part of the type certification basis for Beech Aircraft Corporation Model 33 Series, Model 35 Series, and Model 36 Series Airplanes that are modified to incorporate anti-detonation injection (ADI) system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. Special conditions were issued April 10, 1987 (52 FR 11627), to provide the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes. This amendment adds a requirement inadvertently omitted from the previously issued special condition.

EFFECTIVE DATE: February 22, 1988.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Beech Bonanza Series Airplanes. This installation incorporates ADI tanks, pumps, and associated control systems to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI

independently of the airplane installation certification.

Special conditions for the certification of this ADI system were proposed in Notice No. 23-ACE-18, published in the *Federal Register* on August 21, 1986. The closing date for comments was September 22, 1986. Two comments were received. The special conditions were adopted essentially as proposed on April 1, 1987, and published in the *Federal Register* on April 10, 1987 (52 FR 11627) to be effective May 11, 1987.

Subsequent certification activity revealed that one special condition paragraph previously coordinated between the FAA and the applicant had inadvertently been omitted from the special condition package. The purpose of this adoption is to correct that omission.

Type Certification Basis

The certification basis for the Beech Aircraft Corporation Model 33 Series, Model 35 Series, and Model 36 Series Airplanes (TC 3A15) is Part 3 of the Civil Air Regulations, as amended to May 15, 1956, and Amendment 3-8; in addition, for the Models A36TC and B36TC only, §§ 23.909, 23.1043, 23.1527(b), and 23.1583(a), as amended by Amendment 23-7 and § 23.959, 23.967(a)(5), and 23.1121(b) as amended by Amendment 23-18 of the Federal Aviation Regulations, Part 23, dated February 1, 1965, and for the Model B36TC only, § 23.1545(a) as amended by Amendment 23-23.

For Model/Serial Numbers F33A (S/N CE-891 and after), V35B (S/N D-10313 and after), F33C (S/N CJ-156 and after), A36 (S/N E-1609 and after), A36TC (S/N EA-1 through EA-241 and EA-243 through EA-272), and B36TC (S/N EA-242, EA-273 and after), Part 36 through Amendment 36-10 of the Federal Aviation Regulations is applicable.

For Model V35B (S/N D-9948 and after), A36 (S/N E-927 and after), F33A (S/N CE-674 and after), F33C (S/N CJ-129 and after), A36TC (all serials) findings of equivalent level of safety for CAR 3.664 and CAR 3.757 are applicable.

For Model V35B (all serials), A36 (all serials), F33A (all serials), F33C (all serials), A36TC (all serials), and B36TC (all serials), findings of equivalent level of safety for CAR 3.387 are applicable.

For all models, Special Conditions No. 23-ACE-18 and this adopted amendment, are applicable when Petersen ADI systems are installed.

Discussion of Comments

The FAA received no comments in response to Notice No. 23-ACE-18A published in the *Federal Register* on

August 31, 1987. The closing date for comments was September 30, 1987.

Conclusion

This action affects only the Beech Model 33 Series, Model 35 Series, and Model 36 Series Airplanes incorporating ADI systems and engines certificated for use with those ADI systems. It is not a rule of general applicability and applies only to the model and series of airplane identified in these amended final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions Amendment

In consideration of the foregoing, the following special conditions amendment is issued as a part of the type certification basis for the Beech Model 33 Series, Model 35 Series, and Model 36 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System as follows:

A new paragraph (1) is added to Special Condition 2 to read as follows:

(1) In § 23.1337(b), for ADI systems, replace the lead-in paragraph with "There must be means to indicate the quantity of ADI fluid in each tank. A dipstick, sight gauge, or an indicator, calibrated in either gallons or pounds, and clearly marked to indicate which scale is being used, may be used. In addition * * *

Issued in Kansas City, Missouri on December 29, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88-1231 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 23

[Docket No. 025CE, Special Conditions No. 23-ACE-25]

Special Conditions; Petersen Aviation, Inc., Modified Bellanca Model 17-30 Airplanes To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for Bellanca, Incorporated, Model 17-30 Airplanes that are modified to incorporate anti-detonation injection (ADI) system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. These special conditions contain the additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Bellanca Model 17-30 Airplanes. This installation incorporates ADI tanks, pumps, lines, and an associated control system to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

The installation of ADI systems in small airplanes for this purpose was not envisioned when the certification basis for the subject airplane was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are

issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid (a mixture of 60 percent alcohol and 40 percent water) is a flammable liquid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid system to meet essentially the same standards as the airplane fuel system.

Type Certification Basis

The type certification basis (TC 1A3) for the Bellanca, Incorporated, Model 17-30 Airplane is Part 03 of the Civil Air Regulations dated December 15, 1946 as amended by Amendments 03-1 through 03-4; §§ 3.80, 3.84a, 3.85a, 3.87, 3.112(c), 3.120, and 3.124(a) of Amendment 3-4, Amendments 3-6 and 3-7, and § 3.74 of Amendment 3-13 to Part 3 of the CAR dated November 1, 1949; and § 3.75(c) of Amendment 3-2 to Part 3 of the CAR dated May 15, 1956.

In addition, these special conditions are applicable when ADI systems are installed.

Discussion of Comments

The FAA received two comments in response to Notice No. 23-ACE-25, published in the *Federal Register* on August 28, 1986. The closing date for comments was September 29, 1986.

One commenter, representing the general aviation manufacturers, submitted several comments to Docket No. 018CE, Notice No. 23-ACE-18, and stated that the " * * * comments are applicable to all such special conditions concerning ADI system installations." The FAA addressed these comments in the adoption of the final special conditions, for Petersen Aviation, Inc., modified Beech Model 3 Series, Model 35 Series, and Model 36 Series Airplanes, published in the *Federal Register* on April 10, 1987 (52 FR 11627).

Another commenter, representing an aviation foundation, " * * * takes issue with the FAA's determination that the anti-detonation injection (ADI) fluid is a flammable liquid in the same volatility class as gasoline. While the Petersen Aviation, Inc., ADI fluid might be a flammable liquid, other ADI liquids are not. ADI fluid is normally a mixture of water and alcohol. Alcohol is added to water to prevent freezing at low ambient temperature conditions. The concentration of alcohol required to effectively lower the freezing

temperature is insufficient to support a flame.

"Anti-detonation injection (ADI) is a generic term covering different combinations and types of alcohol and water. All ADI fluids are not flammable and some changes in the terminology must be incorporated to exclude nonflammable fluids from having to be specially handled and protected as gasoline."

The FAA recognizes that ADI systems have been used in both reciprocating and turbine engines for many years. In these systems, the ADI mixture ratio of alcohol to water was lower and flammability was less. The ADI fluid to be used in the Petersen installation is 60 percent methanol and 40 percent water. According to Perry's Chemical Engineer's Handbook, Sixth Edition, McGraw-Hill, 1984, pages 12-43, methanol water mixtures are classed as a highly flammable fire hazard with a flash point of 75 °F for a 30 percent solution of methanol in water.

The FAA agrees that ADI is a generic term. However, unless and until Petersen Aviation, Inc., adopts a descriptor or a trade name for this system, the FAA will refer to it as an ADI flammable fluid system, as distinguished from a nonflammable fluid system. The FAA does not plan a change in terminology at this time.

Supplemental Notice

During the type certification program of an ADI system on another airplane, it was discovered that a necessary paragraph addressing the ADI fluid quantity measuring device was inadvertently omitted from the Notice of Proposed Special Conditions. The paragraph was published as a Supplemental Notice for public comment in the *Federal Register* on August 31, 1987 (52 FR 32805). The comment period closed on September 30, 1987. No comments were received. The requirement has been incorporated into these final special conditions as paragraph 2(1).

Conclusion

This action affects only the Bellanca Model 17-30 Airplanes incorporating ADI systems and engines certificated for use with those ADI systems. It is not a rule of general applicability and applies only to the model and series of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, and Tires. The

authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

In consideration of the foregoing, the following special conditions are issued as a part of the type certification basis for Bellanca Model 17-30 Airplanes modified to incorporate the Petersen Aviation, Inc. Anti-Detonation Injection (ADI) system, as follows:

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951 (a) and (b); § 23.953; § 23.954, § 23.955 (a) and (c)(1); § 23.959; § 23.961; § 23.963 (a), (d), and (e); § 23.965(a)(1); § 23.967(a) (1) and (2), (b), (c), (d), and (e); § 23.969; § 23.971; § 23.973 (a), (b), and (c); § 23.975(a) (1), (2), (3), (5), (6), and (7); § 23.977(a)(1), (b), (c), and (d); § 23.991; § 23.993; § 23.994; § 23.995; § 23.997; § 23.999; § 23.1141; § 23.1143 (a), (e), and (f); § 23.1189 (a) and (c); and § 23.1337(a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23-30, except as set forth in Special Conditions 2 through 4.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in Special Condition 1, as appropriate. In addition, certain Part 23 requirements listed in Special Condition 1 are reworded for ADI systems, as follows:

(a) In § 23.995(a) General. In the first sentence, replace the words "The ability of the fuel system to provide fuel at the rates specified in this section and at a pressure sufficient for proper carburetor operation must be shown * * *" with the words "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown * * *."

(b) In § 23.955, replace the entire paragraph (c)(1) with "This flow rate is required for each primary pump and each alternate pump, when each pump is supplied with normal voltage."

(c) In § 23.967(d), the first sentence is not applicable to ADI systems. In the second sentence, the words "of a single engine airplane" are not applicable to ADI systems.

(d) In § 23.971, replace the current paragraph (a) with "(a) Each ADI fluid

tank must be drainable in the normal ground attitude". Replace current paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace current paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace current paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine." In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace current paragraph (d) and "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow-sensing devices such that the blockage of the filter will be detected by this device".

(g) In § 23.999, paragraph (b)(1) is not applicable to ADI systems.

(h) In § 23.1141(a), paragraphs (d) and (e) of § 23.777 which are incorporated by reference, are not applicable to ADI systems.

(i) In § 23.1141(a), paragraph (e)(1) of § 23.1555, which is incorporated by reference, is not applicable to ADI systems.

(j) In § 23.1141(e), the words "for turbine-engine-powered airplanes" are not applicable to ADI systems.

(k) In § 23.1143, as applies to the control and shutoff of the ADI system, add the following sentence: "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

(l) In § 23.1337(b), replace the current lead-in paragraph with the following paragraph: "There must be means to indicate the quantity of fluid in each tank. A dipstick, sight gauge, or an indicator, calibrated in either gallons or pounds and clearly marked to indicate which scale is being used, may be used. In addition * * *

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. The ADI fluid tank filler openings must be conspicuously marked at or near the filler cover with: (a) the words "ADI fluid meeting the Petersen Aviation, Inc., specification"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri on December 29, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88-1230 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 375, and 382

[Docket No. RM87-3-019, et al.]

Annual Charges Under the Omnibus Budget Reconciliation Act of 1986

Issued January 14, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing and clarifying final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) issued a final rule and an order on rehearing of the final rule which promulgated and then refined the regulations establishing annual charges required by the Omnibus Budget Reconciliation Act of 1986 (Act of October 21, 1986, Pub. L. No. 99-509, Title III, Subtitle E, Section 3401, 1986 U.S. Code Cong. & Ad. News (100 Stat.) 1890-91 [to be codified at 42 U.S.C. 7178], I FERC Statutes & Regulations, ¶ 6253). This order is clarifying several portions of the Commission's final rule and order on rehearing of the final rule.

EFFECTIVE DATE: January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Roland M. Frye, Jr., Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8308.

SUPPLEMENTARY INFORMATION:

[Docket Nos. RM87-3-019 through 20; Order No. 472-C]

Order Granting Rehearing and Clarifying Final Rule

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

I. Introduction

The Federal Energy Regulatory Commission (Commission) is clarifying several portions of its final rule and its order on rehearing of the final rule.¹ The Commission offers these clarifications in response to filings by KN Energy, Inc. (KN), ANR Pipeline Company and Colorado Interstate Gas Company (collectively ANR), Washington Natural Gas Company as project manager of the Jackson Prairie Storage Project (Jackson Prairie), Eureka Pipe Line Company (Eureka), Natural Transit Company (Natural Transit), and Central Illinois Public Service Company (CIPSCO).

II. Background

In the final rule and the order on rehearing, the Commission promulgated, and then refined, regulations establishing annual charges required by the Omnibus Budget Reconciliation Act of 1986.² In the process, the Commission provided that any natural gas pipeline may pass through to its customers the annual charge assessment by use of a per-Mcf surcharge (annual charge adjustment, or ACA) and that a pipeline may avoid double assessment of certain gas which was included in both the storage volumes and the sales or transportation volumes of the pipeline's Annual Report Form No. 2.

The order on rehearing also gave oil pipelines the opportunity to revise their 1987 annual charge bills by altering the revenue figures upon which those bills are based. The Commission agreed to reduce the total revenue figures by the amount of any intrastate revenues received by the oil pipelines.

In the order on rehearing, the Commission stated that capacity participation sales between an electric utility and its customers should not automatically be included in the adjusted coordination sales category for

¹ Order No. 472, "Annual Charges Under the Omnibus Budget Reconciliation Act of 1986," 52 FR 21263 (June 5, 1987), III FERC Statutes & Regulations ¶ 30,746, clarified, Order No. 472-A, 52 FR 23650 (June 24, 1987), III FERC Statutes & Regulations ¶ 30,750, rehearing granted in part, Order No. 472-B, 52 FR 36013 (Sept. 25, 1987), III FERC Statutes & Regulations ¶ 30,767.

² Act of October 21, 1986, Pub. L. 99-509, Title III, Subtitle E, Section 3401, 1986 U.S. Code Cong. & Ad. News (100 Stat.) 1874, 1890-91 [to be codified at 42 U.S.C. 7178], I FERC Statutes & Regulations ¶ 6253.

annual charges purposes. The Commission determined that capacity participation sales are actually made up of separate, distinct transactions and that the utility must scrutinize each transaction within the overall capacity participation sale and categorize the transaction as either an adjusted sale for resale or an adjusted coordination sale, as defined in Order No. 472, for annual charge purposes.

III. Discussion

A. Assessment of ACA Unit Charge on Gas Subject to the Commission's Jurisdiction

KN seeks clarification of § 154.38(d)(6) of the Commission's regulations. It argues that KN's should not be assessed on its non-jurisdictional local distribution sales. KN also requests that, if the Commission's regulations require that KN use an ACA unit charge based on KN's non-jurisdictional local distribution sales and if Order No. 472 is reversed on appeal, the Commission should protect KN from any undercollections of its annual charges from its customers which would result from using the ACA mechanism.³ KN asserts that it is currently being assessed on annual charges bill based on all of its sales, of which 64 percent are non-jurisdictional local distribution companies (LDC) sales.⁴

KN's annual charges bill is based not only on its jurisdictional sales volumes but also on the volumes of gas which it transports through its certificated facilities. The gas volumes transported are subject to annual charge assessment whether or not their sale is subject to the Commission's jurisdiction. Since the Commission incurs expenses related to the regulation of transportation volumes, it assesses annual charges based on those volumes. Therefore, KN's local distribution sales volumes, which are transported through KN's jurisdictional facilities, can be included to compute KN's annual charges. However, KN is incorrect when it claims that the annual charges rule requires it to pass through

such costs using an ACA unit charge.⁵ KN may recoup its annual charge expenses in its next Natural Gas Act Section 4 rate case.

B. Double Assessment of Contract Storage Volumes

ANR asks the Commission to clarify that no storage volumes that are also sold or transported by the storing pipeline would be counted twice in computing annual charges. The Commission's order on rehearing gave assessed gas companies the opportunity to avoid double assessment of all storage volumes of gas, except contract storage volumes. In Order No. 472-A, the Commission precluded double assessment of system supply storage volumes delivered into storage by the reporting pipeline and reported as sales or transportation and compression volumes by the reporting pipeline during the same reporting year. In Order No. 472-B, the Commission precluded double assessment of system supply storage volumes of gas delivered into storage by the reporting pipeline during the reporting year and which the reporting pipeline intends to sell or transport in future years. ANR would have the Commission expand these exemptions still further to include not only system supply gas but also contract storage gas.

The Commission is granting ANR's request. The Commission intended to include storage volumes in its annual charges computation only if those volumes were delivered into contract storage and were not already included in the reporting company's sales and transportation figures.

The Commission will therefore give each natural gas pipeline which provides storage services the opportunity to indicate how much of its FY 1986 storage volumes are gas placed into storage by the pipeline during that year and (i) also reported as sales, transportation or compression volumes by the pipeline during the same year, or (ii) intended for sale or transport in a subsequent year, or (iii) not intended for sale or transport.⁶

³ Because the Commission's regulations do not require the use of an ACA unit charge, it is not necessary to respond to KN's second request for protection from undercollections in the event that the ACA provision is overturned on appeal. However, the Commission notes that if Order No. 472 were overturned on appeal, the Commission would expect to reimburse the annual charges payments, so that KN's concerns about underpayment would be groundless.

⁴ The FERC Form No. 2 instructions listed in footnote 44 of Order No. 472-B are therefore modified as follows:

Also indicate by footnote (1) the volumes of gas that the reporting pipeline placed into storage

The Commission will give natural gas pipelines which provide storage service the opportunity to provide such data for calendar year 1986. By close of business, February 23, 1988, any interstate natural gas pipeline may provide the Commission with a sworn statement that separates its reported storage volumes into the three categories listed above.⁷ Pipelines should file the data with the Office of the Secretary, Attn: Jewel Poore, Division of Management Systems. When the Commission recomputes the 1987 annual charges in order to reflect the Commission's actual FY 1987 expenses, it will also consider these data and will revise the natural gas pipelines' bills to remove assessments based on all but those volumes in the third category listed above.⁸ If a pipeline does not file the data, it will be unable to benefit from the recalculation of storage volumes for the 1987 annual charges bills.

Jackson Prairie filed certain volumetric data related to its 1987 annual charges bill, and complained that a large portion of the gas it stores is being double assessed. It argues that if its storage facility were owned 100 percent by one of its co-owners, Northwest Pipeline Corp., the volumes would only be subject to single assessment. The Commission rejects this argument. Jackson Prairie is not owned solely by Northwest. In fact, it is a separate entity co-owned by three companies and has its own rate schedule on file with the Commission.

C. Request for Lump-Sum Refunds for Overpayment of 1987 Annual Charges

Eureka and Natural Transit filed interstate and intrastate oil pipeline

during the reporting year and reported as sales, transportation and compression volumes by the reporting pipeline during the same reporting year, (2) the volumes of gas that the reporting pipeline placed into storage during the reporting year and that the reporting pipeline intends to sell or transport in a subsequent reporting year, and (3) the volumes of gas that the reporting pipeline placed into storage during the reporting year and that the reporting pipeline does not intend to sell or transport in the present or future reporting year.

These instructions replace in their entirety the instructions added in the first paragraph of footnote 44 of Order No. 472-B to pages 520-521 of Form No. 2 and pages 18-19 of Form No. 2-A. Revised pages 520-521 and 18-19 are attached as Appendices A and B to this order and contain all instructions added to those pages as a result of this rulemaking proceeding.

⁷ To facilitate such natural gas pipelines' timely filing of this data, the Commission is sending a copy of this order to each pipeline listed in Appendix B of the final rule that either reported storage volumes in its 1986 annual report or filed a 1986 Form No. 2-A. This service is provided by United States Mail.

⁸ See 52 FR at 21289. Any adjustments will be reflected by credits to the 1988 annual charges bills of those companies filing the data specified above.

³ Letter from Hassel M. Sanders to Kenneth F. Plumb accompanying tariff filing in Docket No. RP88-7-000, dated September 30, 1987.

⁴ In its September 11, 1987 order in Docket No. RP87-86, the Commission rejected tariff sheets proposed by KN seeking to increase the otherwise applicable ACA unit charge applicable to jurisdictional sales rate schedules. Through these tariff sheets, KN proposed to recover all its 1987 annual charges bill solely from jurisdictional sales. The September 11 order in effect required that, if KN chose to recoup its annual charges expenses through the ACA option, it must apply the ACA unit charge against both sales and transportation gas volumes which are subject to the Commission's jurisdiction.

revenue data relevant to their 1987 annual charges bills. They request to be reimbursed by lump-sum cash refunds for the amount by which their July 1987 annual charges payments exceed the revised bills as adjusted to remove intrastate transportation revenues. Eureka paid \$5,656 on a total revenue base of \$7,707,786 (as required by the final rule) rather than on the interstate revenue base of only \$143,779 (a corrected requirement set forth in the rehearing order). National Transit paid \$1,026 on a total revenue base of \$1,398,413 rather than the interstate revenue base of \$829,630. Eureka and National Transit argue that they should receive their refunds in a lump sum now because it would take them a long time to recoup these overpayments through credits to future annual charges bills (the method established in this proceeding for reimbursement of overpayments).

The Commission agrees that some lump-sum payment is appropriate for oil pipelines whose 1987 annual charges will be drastically reduced by the adjustment to the revenue base used to compute annual charges. However, the Commission does not believe that a lump-sum payment for the entire overpayment is appropriate. The 1987 annual charges bills will be recomputed by July 1988 to take into account both the new data received from the companies in response to the data requests in the rehearing order, and also to take into account the Commission's own actual year-end cost. This recomputation will result in oil pipelines receiving credits or debits to their 1988 annual charge bills equal to their overpayment or underpayment of their share of the Commission's 1987 expenses. The Commission will, at that time, make a lump-sum payment to each oil pipeline whose overpayment exceeds its 1988 annual charge bill.⁹ The refund will be for the amount by which the overpayment exceeds the 1988 bill. These oil pipelines will recoup the remainder of the overpayment through credits to their 1988 annual charges bills, just as other pipelines do.

Based on tentative data currently available to the Commission, nine companies (including Eureka) will

⁹ The volumetric data currently available to the Commission indicates that only two natural gas pipelines' and no electric entities' estimated overpayments exceed their 1987 estimated revised annual charges bills. Those two pipelines, listed in Appendix C, will receive refund checks based on the same principles as the refunds made to oil pipelines.

receive refund checks.¹⁰ National Transit would not be eligible for such a refund check because its estimated overpayment amount (\$291) would not exceed its estimated 1988 annual charge bill (\$735). National Transit will therefore recoup its entire overpayment through a credit to its 1988 annual charges bill.

D. Central Illinois Public Service Company

CIPSCO seeks clarification that the Commission did not preclude CIPSCO's capacity participation sales from being designated entirely as adjusted coordination sales for annual charges purposes. In the order on rehearing (Order No. 472-B), the Commission stated that capacity participation sales between an electric utility and its customers should not automatically be included in the adjusted coordination sales category for annual charges purposes. It used Central Illinois Public Service Company (CIPSCO) as an example. CIPSCO asks the Commission to clarify whether the decision on capacity participation sales applies only to CIPSCO's specific arrangements or instead to any electric utility's capacity participation sales. CIPSCO misconstrued the order. It did not intend to exclude all capacity participation sales from the adjusted coordination category for annual charges purposes. The Commission intended that all utilities with these types of transactions examine each component separately in light of the definitions of adjusted sales for resale and adjusted coordination sales and must place those components in the appropriate categories for annual charge purposes. The Commission was merely using CIPSCO's capacity participation sales for illustrative purposes.

IV. Paperwork Reduction Act Statement

The information collection provisions of this rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act¹¹ and OMB's regulations.¹² Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (Attention: Ellen Brown, (202) 357-5311). Comments on the information collection provisions can be sent to the Office of Information

¹⁰ These companies are listed in Appendix C to this order. Actual refund amounts will not be known until the bills are recalculated.

¹¹ 44 U.S.C. 3501-3502 (1982).

¹² 5 CFR 1320.13 (1987).

and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

If the information collection provisions in this rule do not receive OMB approval before the January 23, 1988 effective date, the information collection requirements will be suspended pending OMB approval. The public will be notified by notice in the **Federal Register** if suspension of the information collection requirements is necessary.

V. Effective Date

This order is effective immediately. The filing requirement becomes effective on January 23, 1988.

By the Commission,

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1302 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 389

[Docket No. RM87-15-000; Order No. 486]

Regulations Implementing the National Environmental Policy Act of 1969

Issued: January 15, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of OMB control numbers.

SUMMARY: On December 10, 1987 the Federal Energy Regulatory Commission issued a final rule (Order No. 486) in Docket No. RM87-15-000, 52 FR 47897 (Dec. 17, 1987). The rule amended the Commission's regulations to adopt and supplement the regulations of the Council on Environmental Quality implementing the National Environmental Policy Act of 1969. This notice states that the Office of Management and Budget has approved the information collection requirements in Order No. 486.

EFFECTIVE DATE: January 15, 1988.

FOR FURTHER INFORMATION CONTACT: Sandra S. Vincent, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (1982) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1987), require that OMB approve certain information collection requirements

imposed by agency rules. On January 11, 1988, the OMB approved the information collection requirements of 18 CFR Parts 2, 157, and 380 as amended by this rule under Control Numbers 1902-0060 and 1902-0128. Therefore, the final rule in Docket No. RM87-15-000 is effective January 16, 1988.

Accordingly, Part 389, Chapter X, Title 18, Code of Federal Regulations is amended as set forth below.

Lois D. Cashell,
Acting Secretary.

PART 389—OMB CONTROL NUMBERS FOR COMMISSION INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 389 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

§ 389.101 [Amended]

2. The Table of OMB Control Numbers in § 389.101(b) is amended by removing "2.82" in the Section Column and "0128" in the corresponding OMB Control Number Column and by adding in the Section Column "Part 380" below the existing entry "361.103" and adding in the corresponding OMB Control Number Column "0128".

[FR Doc. 88-1299 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Amendment to Comprehensive Plan and Water Code of the Delaware River Basin

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: At its January 13, 1988 business meeting the Delaware River Basin Commission amended its Comprehensive Plan and Water Code in relation to water conservation performance standards for plumbing fixtures and fittings. The amendment requires that all such standards adopted by the four Basin States or political subdivisions within the Basin comply with specified minimum standards for sink and lavatory faucets, shower heads, water closets, urinals and associated flushing mechanisms. Compliance dates are specified as are certain specialized fixtures and fittings not covered by the regulation. The regulation also requires certification by manufacturers that their plumbing fixtures and fittings comply with the

adopted water conservation performance standards. Periodic review of the performance standards and testing requirements will also be required to allow for incorporation of more stringent water conservation performance standards as technology advances. Finally, Pennsylvania municipalities seeking Commission approval or renewal must document that water conservation performance regulations consistent with this regulation have been adopted within their area of jurisdiction.

EFFECTIVE DATE: January 13, 1988.

ADDRESS: Copies of the Commission's Water Code are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission; Telephone (609) 883-9500.

SUPPLEMENTARY INFORMATION: The Commission held a public hearing on this amendment on October 28, 1987 as noticed in the August 25, 1987 and October 21, 1987 issues of the Federal Register (52 FR, 32024 and 52 FR, 39266). Based upon testimony received and further deliberation, the Commission has amended its Comprehensive Plan and Water Code of the Delaware River Basin.

List of Subjects in 18 CFR Part 410

Water pollution control.

The Commission's Comprehensive Plan and Water Code of the Delaware River Basin, which are referenced in 18 CFR Part 410, are amended as follows:

PART 410—[AMENDED]

Article 2 of the Water Code of the Delaware River Basin is hereby amended by the addition of a new subsection 2.1.5 to read as follows:

2.1.5 Water Conservation Performance Standards for Plumbing Fixtures and Fittings

(1) (a) All water conservation performance standards for plumbing fixtures and fittings adopted by any signatory state or political subdivision within the Delaware River Basin shall comply with the following minimum standards:

(i) For sink and lavatory faucets, maximum flow shall not exceed three gallons of water per minute when tested in accordance with American National Standards Institute (ANSI) A112.18.1M; and

(ii) For shower heads, maximum flow shall not exceed three gallons of water per minute when tested in accordance with ANSI A112.18.1M; and

(iii) For water closets and associated flushing mechanism, maximum volume shall

not exceed an average of three and one-half gallons of water, but no more than four gallons per flushing cycle, when tested in accordance with the hydraulic performance requirements of ANSI A112.19.2M or ANSI A112.19.6M;

(iv) For urinals and associated flushing mechanism, maximum flow shall not exceed one and one-half gallons of water per flush when tested in accordance with the hydraulic performance requirements of ANSI A112.19.6M.

(b) Any water conservation performance standards adopted prior to the effective date of this regulation that are not in compliance with the provisions of (a) shall be amended or revised to comply with the provisions of (a) by January 1, 1990.

(c) The Commonwealth of Pennsylvania is encouraged to adopt water conservation performance standards for plumbing fixtures and fittings that comply with the provisions of (a) by January 1, 1989. In the absence of such regulations, municipalities within the Pennsylvania portion of the Basin that have not adopted regulations to enforce water conservation performance standards for plumbing fixtures and fittings shall be required to adopt regulations that comply with the provisions of (a) by January 1, 1990.

(2) (a) The performance standards of subsection (1) shall apply to plumbing fixtures and fittings installed in new construction and, where provided in state or local regulations, in existing structures undergoing renovations involving replacement of such fixtures and fittings.

(b) The performance standards of subsection (1) shall not apply to fixtures and fittings such as emergency showers, aspirator faucets, and blowout fixtures that, in order to perform a specialized function, cannot meet the standards specified in subsection (1).

(3) Manufacturers shall certify that their plumbing fixtures and fittings comply with the water conservation performance standards specified in subsection (1). Such certification shall be based on independent test results.

(4) The Executive Director shall periodically review the performance standards and testing requirements set forth in subsection (1) to determine their adequacy in light of advances in technology for water conservation fixtures and fittings. The results of such reviews, including any recommendations for more stringent water conservation performance standards, shall be presented to the Commission. An initial review shall be completed within one year of the effective date of this regulation. This initial review shall consider the revision of subsection (1)(a)(iii) to require that effective January 1, 1990, maximum volume for water closets shall not exceed one and six-tenths gallons (six liters) per flushing cycle when tested in accordance with the hydraulic performance requirements of ANSI A112.19.2M or ANSI A112.19.6M.

(5) Municipalities of the Commonwealth of Pennsylvania seeking permit approval or renewal under Section 3.8 of the Compact for water supply or wastewater discharge projects shall document that regulations consistent with subsection (1) have been

adopted within their area of jurisdiction. Such documentation shall be a condition for permit approval of renewal.

(Delaware River Basin Compact, 75 Stat. 688)

Susan M. Weisman,

Secretary.

January 14, 1988.

[FR Doc. 88-1183-Filed 1-21-88; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 552

Regulations Affecting Military Reservations: Firearms and Weapons

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This rule establishes the criteria for possessing, carrying, concealing, and transporting firearms and/or other deadly or dangerous weapons on the Fort Stewart/Hunter Army Airfield installations. The installation commander is required to enact this rule due to 32 CFR Part 552. This rule provides guidance on prohibited items and the requirements for possession, use, and storage under certain conditions for anyone (military or civilian) employed on, visiting, or traveling through or on the above installations.

DATE: Effective January 22, 1988.

ADDRESS: Comments should be sent to: Commander, 24th Infantry Division (Mechanized) and Fort Stewart, Attention: AFZP-JAA, Fort Stewart, Georgia 31314-5019.

FOR FURTHER INFORMATION CONTACT: CPT Richard Lubke (Principal Attorney), 912-767-2953, or CPT Dennis Wilde (Operations Officer), 912-767-4801.

SUPPLEMENTARY INFORMATION: The installation commander is responsible for the efficient and economical operation, service, and supply of personnel, units, and activities assigned to or under the jurisdiction of the 24th Infantry Division (Mechanized) and Fort Stewart, and for ensuring that reasonable precautions are taken to safeguard personnel and property within his command. The purpose of this rule is to establish guidelines for possessing, carrying, concealing, using, and transporting firearms and/or other deadly or dangerous weapons at Fort Stewart and Hunter Army Airfield. This rule specifically addresses what weapons or devices are prohibited, the penalties for noncompliance, the requirements for possession and use,

those persons subject to the rule, the disposition of confiscated/seized weapons, and those persons exempt from the rule. This rule is authorized by 10 U.S.C. 3012, 32 CFR Part 552, and Army Regulation 210-10, 1 November 1977, Installations Administration. The requirements of the rule will be monitored by installation law enforcement personnel, commanders, supervisors, and managers. One comment was received on the proposed rule published in the *Federal Register* December 16, 1986 (51 FR 44997). This final rule encompasses consideration thereof.

List of Subjects in 32 CFR Part 552

Guns, Weapons, Military reservations.

For the reasons set out in the preamble, Title 32, Chapter V, Part 552 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 552 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 3012, 15 U.S.C. 1601, 18 U.S.C. 1382, 31 U.S.C. 71, 40 U.S.C. 258a, 41 U.S.C. 14, 50 U.S.C. 797.

2. Subpart G consisting of section 552.105 to 552.111 is redesignated as Subpart H.

3. A new Subpart G is added to read as follows:

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

Subpart G—Firearms and Weapons

Sec.	
552.98	Purpose.
552.99	Applicability.
552.100	Definitions.
552.101	Prohibitions.
552.102	Requirements for possession and use.
552.103	Requirements for carrying and use.
552.104	Disposition of confiscated/seized weapons.

Subpart G—Firearms and Weapons

§ 552.98 Purpose.

This regulation establishes the criteria for possessing, carrying, concealing, and transporting firearms and/or other deadly or dangerous weapons and instruments on Fort Stewart/Hunter Army Airfield (AAF) installations.

§ 552.98 Applicability.

(a) The provisions of this regulation apply to all Department of Defense (DOD) military; civilian personnel; U.S. Army Reserve/National Guard (USAR/NG) personnel on post for active duty training or inactive training in conjunction with Active Army elements,

military family members; civilians employed on, visiting, or traveling through or on the Fort Stewart/Hunter AAF installation.

(b) This regulation will not become void in its entirety merely because one part or portion thereof is declared unconstitutional or void.

(c) This regulation is punitive. Military violators of the regulations may be prosecuted under the Uniform Code of Military Justice or may be subject to administrative action. Civilian violators may be subject to administrative or judicial action under Title 18, United States Code, or Title 16, Criminal Code of Georgia.

§ 552.100 Definition.

(a) *Ammunition.* Projectiles together with their fuses, propelling charges, and primers that are designed to be expelled from a firearm. This includes any type of military and commercial ammunition (ball, tracer, incendiary, blank, shotgun, black powder, and shot). Items shall only be considered as ammunition when loaded into a cartridge with its bullets and primer.

(b) *BB and pellet guns.* Any type rifle, pistol or other instrument designed or redesigned, made or remade, modified or remodified to expel BBs or pellets by springs, compressed air, CO2 or any other compressed gas cartridge.

(c) *Dangerous instruments.* Any device which is designed or redesigned, made or remade, modified or remodified to be used as an offensive or defensive weapon. Devices of this type include but are not limited to:

(1) "Constant companion" or any similar weapon, designed or redesigned, made or remade, modified or remodified to be worn as a belt buckle, brass knuckles, "Knucklers," and "Knucks."

(2) Studded or spiked wrist bands, or any device designed or redesigned, made or remade, modified or remodified to fit over the hand or wrist which can be used to cause grave bodily harm.

(3) Black jacks, slapjacks, slappers, saps, including homemade substitutes, other bludgeons (with or without handles), and metal pipes.

(4) "Nanchaku" (num-chucks), two or more sticks connected by rope, cord or chain and normally used as a martial arts weapon. "Shuriken", a disc or any geometrical object designed to be thrown as a weapon. "Manrikigusari" or "Kusari," a rope or cord joined to a weight at each end and designed to be used as a weapon.

(5) Any finger ring with blades or sharp objects that are capable of being projected/extended from the surface of the ring.

(6) Any device capable and primarily intended for discharging darts or needles.

(7) All firearms.

(d) *Explosive, incendiary, and pyrotechnic devices.* Any type of military or commercial explosive, incendiary, gas or smoke bomb, grenade, rocket, missile, mine, blasting cap, "dummy" and/or practice device such as simulators, and other similar detonating devices which are capable of being altered to contain a live charge, and pyrotechnic devices such as firecrackers, cherry bombs, bottle rockets, and star clusters.

(e) *Firearms.* Any type of weapon which is designed or redesigned, made or remade, modified or remodified to expel a projectile by action of any explosion, and the frame or receiver of any such weapon. This does not include antique firearms, antique replicas, and those modern firearms which have been rendered permanently incapable of being fired.

(f) *Knives, sabers, swords, and machetes.* Any instrument having a sharp blade which is fastened to a handle, or made with a handle. Measurement of the blade will be from the tip of the blade to the point where the blade meets the handle. This includes folding knives, switchblades, gravity knives, stiletos, lock blade knives, swords, sabers, and machetes.

(g) *Machine gun and automatic weapon.* A weapon designed or redesigned, made or remade, modified or remodified to automatically fire more than one shot by a single pull of the trigger.

(h) *Public gathering.* Shall include, but shall not be limited to, athletic or sporting events, schools or school functions, churches or church functions, rallies, or establishments at which alcoholic beverages are sold for consumption on the premises.

(i) *Shotgun.* A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; and designed or redesigned, made or remade, to use the energy or the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(j) *Sawed-off shotgun.* A shotgun or any weapon made from a shotgun whether by alteration, modification, or otherwise having one or more barrels less than 18 inches in length or if such weapon as modified has an overall length of less than 20 inches.

(k) *Sawed-off rifle.* A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; and designed or

redesigned, made or remade, to use the energy of the explosive in a fixed metallic cartridge to fire only as a single projectile through a rifle bore for each single pull of the trigger; and which has a barrel or barrels of less than 16 inches or has an overall length of less than 26 inches.

(l) *Silencer.* Any device used for suppressing or diminishing the report of any firearm.

(m) *Weapon.* An instrument used in an offensive or defensive manner.

§ 552.101 Prohibitions.

(a) *Prohibited items.* It is prohibited to possess, carry, conceal, transport, store, transfer or sell any of the following weapons or devices on, through or within the confines of Fort Stewart and Hunter AAF installations unless specifically allowed elsewhere in this regulation:

(1) Sawed-off shotgun.

(2) Sawed-off rifle.

(3) Machine gun and automatic weapons.

(4) Silencers.

(5) Dangerous instruments as defined in § 552.100(c).

(6) Explosives, Incendiary and Pyrotechnic Devices, as defined in § 552.100(d).

(7) Knives with automatic blade openers (i.e., switch blades, gravity knives, stiletos) of any blade length. Folding or fixed bladed knives with a blade length of more than 3 inches. Swords, sabers, and machetes with sharpened blades.

(8) Any object which carries an electrical current of sufficient wattage to deliver a shock to a person, such as cattle prods, "taser" or "public defenders."

(b) *Carrying a concealed weapon.* A person commits the offense of carrying a concealed weapon when he/she knowingly has or carries about his/her person, unless in an open manner and fully exposed to view, any bludgeon, metal knuckles, firearm, or knife designed for the purpose of offense and defense, or any other dangerous or deadly weapon or instrument of like character outside of his/her home or place of business.

(c) *Carrying Deadly Weapons to or at Public Gatherings.* A person commits an offense under this section when he/she carries to or while at a public gathering any explosive compound, firearm, or knife designed for the purpose of offense and defense. This paragraph shall not apply to competitors participating in organized sporting events, military personnel in a formation when a weapon is required, or to police/security

personnel while in performance of their duties.

(d) *Prohibited Possession and Storage.* It is prohibited for a person, military or civilian, to possess or store ammunition, firearms, knives with blades more than 3 inches, bows and arrows, crossbows, and BB and pellet guns, in locations other than those locations specified in § 552.102, except under conditions specified in § 552.103. Prohibited locations for these items include, but are not limited to, living spaces and common areas of billets, squad rooms, privately-owned vehicles, exterior storage sheds, camper trailers, and offices. Commanders will designate an arms room and times for weapons turn-in. During periods when arms rooms are closed, the Staff Duty Officer (SDO) will ensure the weapon is secured in accordance with (IAW) this regulation. A receipt will be given for each weapon received, reflecting the weapon's make, serial number, identity of owner and other data deemed appropriate.

(e) *Exemptions.* Nothing in this regulation shall prohibit:

(1) Military members or DOD civilian employees from possessing or using military weapons, military ammunition or explosives, or military devices in a lawful manner while in the performance of their military duties or for training or other authorized purposes, as prescribed by applicable Army Regulations.

(2) Military and DOD civilian personnel, while in the performance of official law enforcement duties, from possessing or using government ammunition, explosives or devices in a lawful manner, as prescribed by applicable laws or regulations or by their lawful superiors.

(3) Federal, state, county or local law enforcement personnel, while in the performance of official law enforcement duties, from possessing or using government or privately-owned weapons, ammunition, explosives or devices in a lawful manner, as prescribed by applicable laws or regulations or by their lawful superiors.

(4) Government contractors, while in performance of their contract from possessing or using weapons, ammunition, explosives or devices, IAW the provisions of their contract and as determined by the Contracting Officer.

(5) Individuals with Federal Firearms Licenses (Class III) from possessing, carrying, and transporting Class III weapons IAW Federal regulations; however, they are prohibited from concealing, storing, transferring, or selling Class III weapons within the confines of Fort Stewart and Hunter AAF.

(6) Individuals from possessing, carrying, transporting, or storing decorative, ornamental, and ceremonial swords and sabers within the confines of Fort Stewart and Hunter AAF when used strictly for display and ceremonies. When used as a cutting instrument, they become a prohibited item.

(7) Individuals and agencies from possessing, transporting, storing, selling, or using fixed bladed knives with a blade length of more than 3 inches when used for their lawful purpose (i.e., steak knives, cooking knives, hunting knives) and when in compliance with all other requirements in this regulation.

§ 552.102 Requirements for possession and use.

DOD military and civilian personnel, their family members, USAR/NG personnel and civilians employed on, visiting or traveling through this installation may possess legally-defined and privately-owned firearms, ammunition, BB and pellet guns, knives, bows and arrows, and crossbows under the following conditions:

(a) Privately-owned firearms, crossbows, BB and pellet guns possessed or stored on the installation must be registered at the installation Provost Marshal's Office within three working days after arrival on the installation, or after obtaining the weapon, except:

(1) Firearms legally brought onto the installation for the purpose of hunting or firing at an approved firing range, and only for the period of time the person possessing the firearms is hunting or firing on the range.

(2) Firearms carried by federal, state, county or local law enforcement personnel when in the performance of official law enforcement duties.

(3) Firearms carried or transported, in full compliance with Georgia State Laws, on Georgia State Highways 119 and 144 by personnel traveling through the installation only. Travel off of these state highways or stopping, other than for emergency purposes, while on the installation is prohibited.

(b) Personnel residing in family housing, BOQ, BEQ/VOQ and guest housing, may store legally-acquired, authorized ammunition, knives with a blade measuring more than 3 inches, bows and arrows, registered crossbows, registered BB and pellet guns and registered firearms within their quarters.

(c) Personnel residing in troop billets may store legally-acquired authorized ammunition, knives and blades measuring more than 3 inches, bows and arrows, registered crossbows, registered BB and pellet guns and registered firearms in unit arms rooms. The unit

arms room should utilize a standard weapons card and log book to document storage, removal, and return.

(d) Persons using weapons borrowed from another must have the documentation required in § 552.103(a) as applicable in their possession when carrying, transporting or using the weapon on the installation.

(e) Persons under the age of 17 must be accompanied by a person over the age of 21 who will be responsible for compliance with the requirements of this regulation while hunting or target shooting on the installation and when purchasing legal arms (including knives with blades over 3 inches) and ammunition from installation retail outlets.

(f) Persons must be in compliance with federal and state laws regarding possession (i.e., age, criminal record restrictions, etc.)

(g) Storage, accountability and registration procedures will be IAW Army Regulation 190-11 and supplements.

§ 552.103 Requirements for carrying and use.

Persons legally authorized to possess firearms, ammunition, knives (with blades longer than 3 inches), bows and arrows, and crossbows, may carry or transport legally possessed and registered (if required) weapons under the following conditions.

(a) For purposes of hunting: From quarters, on or off the installation, by the most direct route to hunting area or Pass and Permit Office and return. Stopping at other installation facilities while enroute is prohibited (i.e., Post Exchange, Club, offices, etc.). Individual must have in his/her possession weapon registration (if applicable), valid state hunting license, valid Fort Stewart hunting permit and an area access pass (if applicable).

(b) For purposes of target shooting, selling the weapon or having the weapon repaired: From quarters by the most direct route to approved range or to the location where the weapon is to be sold or repaired and returned. Stopping at other installation facilities while enroute is prohibited. Individual must have in his/her possession at all times his/her registration (if applicable).

(1) When carried, weapons will be carried in an open manner (not concealed). Firearms will be unloaded when carried (i.e., projectiles physically separated from the firearms, not just removed from the chamber), except when actually engaged in hunting or shooting. Knives will be carried in a sheath or scabbard worn in a clearly visible manner. Commanders may

authorize the carrying of a privately-owned knife with a blade over 3 inches to field duty, provided it is carried IAW Victory Standard and exposed in a sheath/scabbard. The Provost Marshal may authorize the carrying of a privately-owned, sheathed, lock blade knife on military and DOD police officers' pistol belts.

(2) When transported in a vehicle, weapons will be in plain view in the passenger area of the vehicle or secured (locked) in the trunk or other rear compartment of the vehicle, not readily accessible from the passenger area (i.e., locked tool box secured to bed of a truck). Firearms will be unloaded and the ammunition physically separated from the firearms. The glove compartment of a vehicle is *NOT* an authorized compartment for storing pistols.

(3) Firearms, bows and arrows, crossbows, BB and pellet guns will not be loaded, fired or used within the cantonment areas of the installation; within 50 yards of any public highway, street or Fort Stewart numbered road or across same; within 100 yards of any designated recreation area, managed waters, building or similar structures; any aircraft landing facility (to include currently used landing or stage fields); any ammunition storage area (except on approved firing range when properly authorized).

(4) Persons not affiliated with DOD or this installation must remain on Georgia State Highways 119 and 144 when carrying or transporting weapons through the installation and must be in full compliance with Georgia State Law governing possession, use and transportation of said weapons. Travel off of these highways or stopping, for other than emergency purposes, while on the installation, is prohibited.

§ 552.104 Disposition of confiscated/seized weapons.

All weapons, ammunition, explosives or other devices defined in this regulation, that are confiscated pursuant to the commission of a crime or violation of this or other regulation or found unsecured/unattended on the installation, will be immediately turned over to the military police, U.S. Army Criminal Investigation Command (USACIC), or the Federal Bureau of Investigation (FBI) for investigation, retention as evidence, or other lawful disposition. When retention for investigation or evidence is no longer required by military police, USACIC, or other law enforcement or judicial agencies, the items will be disposed of

under the provisions of AR 195-5, Evidence Procedures.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 88-1184 Filed 1-21-88; 8:45 am]

BILLING CODE 3710-08-M

VETERANS ADMINISTRATION

38 CFR Part 17

Transportation of Claimants and Beneficiaries

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration (VA) is amending its medical regulations (38 CFR Part 17) by deleting references to the 100-mile radius for beneficiary travel. In place of the 100-mile radius provision, an \$11.00 deductible will be instituted for one way travel and a \$22.00 deductible will be imposed for round trip transportation. The VA is making this change to improve access to VA health care for veterans living in areas remote from VA facilities.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT:

Karen O. Walters, Chief, Policies and Procedures Division (136F), Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2143.

SUPPLEMENTARY INFORMATION: Under the VA's beneficiary travel regulations, as amended on March 12, 1987, VA limited payments for beneficiary travel primarily to those requiring a special mode of transportation to get to a VA health care facility (e.g. ambulance) and to veterans residing more than 100 miles from a VA health care facility. The regulations provide that all travel payments to eligible veterans residing more than 100 miles from a VA facility will be subject to a deductible equal to 100 times the mileage rate established under 38 U.S.C. 111(e)(1) for a one-way trip, and 200 times the rate for a round trip. The mileage rate is 11 cents per mile resulting in a one-way deductible of \$11.00 and a round trip deductible of \$22.00. After implementation of the amended regulations, VA became aware of an inequitable situation in Hawaii in which veterans living less than 100 miles from a VA health care facility are unable to get to that facility without using costly public transportation, primarily commercial airlines. Thus, in Hawaii, veterans who live on outer islands less than 100 miles from a source

of VA health care must fly to receive health care. For many this is prohibitively expensive.

This amendment continues to place application on the deductible to beneficiary travel payments, but would eliminate the requirement that to be eligible for travel payments a veteran must reside more than 100 miles from a VA facility. It permits veterans living less than 100 miles from a facility to be reimbursed, subject to the deductible, for the costs of expensive public transportation which is necessary for them to get to a VA health care facility. For example, a veteran living on a small island in Hawaii 80 miles from the source of VA health care, could purchase a \$50.00 airline ticket to get to the source of VA health care, and be reimbursed for \$39.00, the cost of the ticket less the \$11.00 one-way deductible.

The VA has determined that compliance with 5 U.S.C. 553(b) as to prior publication for notice and public comment is, pursuant to 5 U.S.C. 553(b)(B), impracticable and contrary to the public interest. There exists good cause for making these regulations effective without further delay; the existing situation is inequitable for the few veterans who must incur expensive public transportation costs in order to obtain VA health care benefits. Accordingly, the amendment is being published as a final regulation.

This final regulation is considered non-major under the criteria of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of \$100 million or more; will result in no significant increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographic regions. It will have no 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 Administrator certifies that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612. This certification can be made because this regulation affects only individual veterans and VA beneficiaries concerning VA payment for, or reimbursement of, their expenses for travel to or from VA medical facilities in certain circumstances.

The Catalog of Federal Domestic Assistance Numbers are 62.011 and 64.009.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs—health, Health care, Health facilities, Health professions, Incorporation by reference, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: July 22, 1987.

Thomas K. Turnage,
Administrator.

PART 17—[AMENDED]

38 CFR Part 17, *Medical*, is amended by revising the introductory text of § 17.100 to read as follows:

§ 17.100 Transportation of claimants and beneficiaries.

Transportation at Government expense may be authorized for an individual who is eligible under this section when a VA physician has determined that a specialized mode of transportation is medically required. Special modes of transportation which may be determined to be medically required include: ambulance, ambulance, air ambulance, wheelchair van, and other modes of transportation which are specially designed to transport certain types of medically disabled individuals. The term "special mode" does not include: public transportation such as bus, subway, train, airplane, or any automobile or similar conveyance. A hired car or taxi may be authorized as a special mode only for interfacility transfers, as authorized in paragraph (e) of this section, if use of such mode of transportation is less expensive than other authorized specialized modes of transportation. For veterans who must travel over 100 miles to reach a Veterans Administration medical care facility and for veterans for whom VA medical care is inaccessible via land transportation, transportation at government expense may also be authorized for eligible persons by application of a deductible. That deductible amount will be the product of the mileage reimbursement rate established under 38 U.S.C. 111(e)(1), multiplied by a factor of 100 for each one-way trip, or 200 for a round trip. Transportation will not be authorized for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless public transportation is not reasonably accessible or would be medically inadvisable. Transportation will not be authorized for the cost of travel in

excess of the actual expense incurred by any person as certified by that person in writing. Transportation will not be authorized unless the person claiming the reimbursement is a service-connected veteran; a nonservice-connected veteran in receipt of VA pension benefits; or a person whose annual income, as determined under the provisions of 38 U.S.C. 503, is less than or equal to the maximum annual base pension rates provided in 38 U.S.C. 521. Travel expenses of all other claimants will not be authorized unless the claimant can present convincing evidence, in a form prescribed by the Administrator, to show the inability to defray the cost of transportation; or except when medically indicated ambulance transportation is claimed and an administrative determination is made regarding the claimant's ability to bear the cost of such transportation. Travel expenses will be authorized for the following purposes:

(Authority: 38 U.S.C. 111)

[FR Doc. 88-1166 Filed 1-21-88; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

Veterans Education; All Volunteer Force Educational Assistance Program

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations are designed to implement those provisions of the Veterans' Educational Assistance Act of 1984 which established a new educational assistance program for veterans and servicemembers, and the provisions of the Department of Defense Authorization Act, 1986, which affect that program. This new program is designed to replace the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) for those who enter the Armed Forces after June 30, 1985. These regulations implement this new program. These regulations do not implement those provisions of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 which affect this program. Neither do they implement the provisions of the New GI Bill Continuation Act. To implement these Acts the Veterans Administration (VA) intends to amend the appropriate regulations and incorporate the amendments at a later date.

EFFECTIVE DATE: In accordance with Pub. L. 99-145, § 21.7044 (a) and (c) are effective November 8, 1985. In accordance with Pub. L. 98-525, the

remaining regulations are effective October 19, 1984.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Vocational Rehabilitation and Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW, Washington, DC 20420, (202) 233-2092.

SUPPLEMENTARY INFORMATION: On pages 25736 through 25757 of the *Federal Register* of July 8, 1987, there was published a notice of intent to amend 38 CFR Part 21, to provide regulations which will permit the proper administration of the Montgomery GI Bill, Active Duty. Interested people were given the opportunity to submit comments, suggestions or objections. The VA received no comments, suggestions or objections. Accordingly, the VA is making those regulations final.

The VA realizes that it will have to amend these regulations at a later date to implement some provisions of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 and the New GI Bill Continuation Act. However, in the interest of providing regulations which will permit the VA to make payments at the proper rates, etc., the Agency believes that it is important to have regulations in place now.

In reviewing the proposed regulations prior to final publication, the VA noted that the proposed wording of § 21.7044(b), pertaining to eligibility based on combined active duty and Selected Reserve service, while correct in and of itself, does not discuss application of the minimum active-duty service requirements of 38 U.S.C. 3103A. Under certain conditions § 3103A provides that a veteran who is discharged or released from active duty before completing at least 2 years of continuous active duty service still may be eligible for benefits under laws administered by the VA. Accordingly, the Agency intends to propose a clarifying change covering this issue as soon as possible after these regulations are made final. Thus, the public may separately comment on that change without delaying the promulgation of these regulations, which are essential to administration of the program.

As proposed, § 21.7072(c) contained internal inconsistencies. In the final regulation, paragraph (c)(4) of that section appears with different wording than the proposed wording in order to eliminate those inconsistencies.

In the proposed regulation, in § 21.7112, paragraph (a)(2) was

inadvertently omitted and has been inserted into the final regulation.

The VA finds that good cause exists for making § 21.7044 (a) and (c), like the section of the law they implement, retroactively effective on November 8, 1985. There is also good cause for making the remainder of these regulations, like the sections of the law they implement, retroactively effective on October 19, 1984. To achieve the maximum benefit of this legislation for the affected individuals, it is necessary to implement these provisions of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of a benefit to a veteran who is entitled by law to it.

The VA has determined that these regulations do not contain a major rule as that term is defined by E.O. 12291, entitled *Federal Regulation*. Although it is possible that in the future this program will have a \$100 million annual effect on the economy, the effect will be caused by the underlying law, not the regulations themselves. These regulations will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects 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 Administrator of Veterans Affairs has certified that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made even though some small entities will have to make the reports required in §§ 21.7152, 21.7154 and 21.7156. The records needed to make the reports are maintained by educational institutions in the normal course of business. Hence, the regulations will not impose any additional recordkeeping costs on the small entities.

Some costs will result from making the reports. However, the reports themselves are required by law either in 38 U.S.C. 1784(a) or 38 U.S.C. 1434(b). While the law allows some leeway in setting the frequency of these reports, in those instances where the VA has chosen a frequency greater than that required by law, the Agency does not

believe the economic impact of the regulations to be significant. Furthermore, part of the cost of making these reports is offset by the reporting fee which the law requires the VA to make to educational institutions.

The regulations will have no economic impact on other small entities such as small government units.

The information collection requirement contained in § 21.7152 has been assigned OMB control number 2900-0073. The information collection requirements contained in § 21.7154 have been assigned OMB control numbers 2900-0465 and 2900-0354. The information collection requirement contained in § 21.7156 has been assigned OMB control number 2900-0156.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.125.

List of Subjects in 38 CFR Part 21

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

Approved: December 7, 1987.

Thomas K. Turnage,
Administrator.

38 CFR Part 21, Vocational Rehabilitation and Education, is amended by adding a new Subpart K, containing §§ 21.7000 through 21.7310 to read as follows:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

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21.7000 Establishment of educational assistance program.

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21.7020 Definitions.

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21.7301 Delegations of authority.

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21.7303 Revision of decisions.

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21.7307 Examination of records.

21.7310 Civil rights.

Authority: 38 U.S.C. chapter 30, Pub. L. 98-525; 38 U.S.C. 210(e).

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

§ 21.7000 Establishment of educational assistance program.

(a) *Establishment.* An educational assistance program for certain veterans and servicemembers is established.

(Authority: 38 U.S.C. 1401(1); Pub. L. 98-525)

(b) *Purpose.* The purposes of the program are:

(1) To assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service;

(2) To promote and assist the All Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to aid in the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces;

(3) To give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces.

(Authority: 38 U.S.C. 1401; Pub. L. 98-525)

Definitions

§ 21.7020 Definitions.

For the purposes of regulations from § 21.7000 through § 21.7499 of this part and the payment of basic educational assistance and supplemental educational assistance under 38 U.S.C. ch. 30, the following definitions apply.

(a) *Definitions of participants.*—(1)

Servicemember. The term

"servicemember" means anyone who:

(i) Meets the eligibility requirements of § 21.7042 or § 21.7044 of this part, and

(ii) Is on active duty with the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service or National Oceanographic and Atmospheric Administration.

(Authority: 38 U.S.C. 1416; Pub. L. 98-525)

(2) *Veteran.* The term "veteran" means anyone who—

(i) Meets the eligibility requirements of § 21.7042 or § 21.7044 of this part, and

(ii) Is not on active duty. The term "veteran" includes an individual who is actively participating in the Selected Reserve.

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 98-525)

(b) *Other definitions.*—(1) *Active duty.*
(i) The term "active duty" means—

(A) Full-time duty in the Armed Forces, other than active duty for training.

(B) Full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service.

(C) Full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration, and

(D) Authorized travel to or from such duty or service.

(ii) The term "active duty" does not include any period during which an individual:

(A) Was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians,

(B) Served as a cadet or midshipman at one of the service academies, or

(C) Served under the provisions of 10 U.S.C. 511(d) pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve. (Authority: 38 U.S.C. 101(21), 1402(6); Pub. L. 98-525)

(2) *Attendance.* The term "attendance" means the presence of a veteran or servicemember.

(i) In the class where the approved course is being taught in which he or she is enrolled, or

(ii) Any other place of instruction, training or study designated by the educational institution where the veteran or servicemember is enrolled and is pursuing a program of education.

(Authority: 38 U.S.C. 1434, 1780(g); Pub. L. 98-525)

(3) *Audited course.* The term "audited course" has the same meaning as provided in § 21.4200(i) of this part.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525)

(4) *Basic educational assistance.* The term "basic educational assistance" means a monetary benefit payable to all individuals who meet basic requirements for eligibility under ch. 30, title 38, United States Code, for pursuit of a program of education.

(Authority: 38 U.S.C. 1402(1); Pub. L. 98-525)

(5) *Break in service.* The term "break in service" means a period of more than 90 days between the date when an individual is released from active duty or otherwise receives a complete separation from active duty service and the date he or she reenters on active duty.

(Authority: 38 U.S.C. 1421; Pub. L. 98-525)

(6) *Continuous active duty.* (i) The term "continuous active duty" means active duty served without interruption. A complete separation from active duty service will interrupt the continuity of active duty service.

(ii) Time lost while on active duty will not interrupt the continuity of service. See § 3.15 of this chapter.

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 98-525)

(7) *Cost of course.* The term "cost of course" means the total cost for tuition and fees for a course which an educational institution charges to nonveterans whose circumstances are similar to veterans enrolled in the same course. "Cost of course" does not include the cost of supplies which the student is required to purchase at his or her own expense.

(Authority: 38 U.S.C. 1432; Pub. L. 98-525)

(8) *Deficiency course.* The term "deficiency course" means any secondary level course or subject not previously completed satisfactorily which is specifically required for pursuit of a postsecondary program of education.

(Authority: 38 U.S.C. 1434; Pub. L. 98-525)

(9) *Dependent.* The term "dependent" means:

(i) A spouse as defined in § 3.50(c) of this chapter,

(ii) A child who meets the requirements of § 3.57 of this chapter, or

(iii) A parent who meets the requirements of § 3.59 of this chapter.

(Authority: 38 U.S.C. 1415(d); Pub. L. 98-525)

(10) *Divisions of the school year.* The term "divisions of the school year" has the same meaning as provided in § 21.4200(b) of this part.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525)

(11) *Drop-add period.* The term "drop-add period" has the same meaning as provided in § 21.4200(1) of this part.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525)

(12) *Educational assistance.* The term "educational assistance" means basic educational assistance, supplemental educational assistance, and all additional amounts payable, commonly called "kickers."

(Authority: 38 U.S.C. 1402; Pub. L. 98-525)

(13) *Educational objective.* An educational objective is one that leads to the awarding of a diploma, degree or certificate which reflects educational attainment.

(Authority: 38 U.S.C. 1402(3), 1652(b); Pub. L. 98-525)

(14) *Enrollment.* The term "enrollment" has the same meaning as provided in § 21.4200(n) of this part.

(Authority: 38 U.S.C. 1434, 1780(g); Pub. L. 98-525)

(15) *Enrollment period.* The term "enrollment period" has the same meaning as provided § 21.4200(p) of this part.

(Authority: 38 U.S.C. 1434, 1780(g); Pub. L. 98-525)

(16) *Holiday vacation.* The term "holiday vacation" means a customary, reasonable vacation period connected with a Federal or State legal holiday which is identified as a holiday vacation in the educational institution's approved literature. Generally, the VA will interpret a reasonable period as not more than one calendar week at Christmas and one calendar week at New Year's and shorter periods of time in connection with other legal holidays.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

(17) *In residence on a standard quarter- or semester-hour basis.* The term "in residence on a standard quarter- or semester-hour basis" has the same meaning as provided in § 21.4200(r) of this part.

(Authority: 38 U.S.C. 1434, 1788(c); Pub. L. 98-525)

(18) *Institution of higher learning.* The term "institution of higher learning" has the same meaning as provided in § 21.4200(h) of this part.

(Authority: 38 U.S.C. 1434, 1788; Pub. L. 98-525)

(19) *Mitigating circumstances.* The term "mitigating circumstances" means circumstances beyond the veteran's or servicemember's control which prevent him or her from continuously pursuing a program of education. The following circumstances are representative of those which the VA considers to be mitigating. This list is not all-inclusive.

(i) An illness of the veteran or servicemember,

(ii) An illness or death in the veteran's or servicemember's family,

(iii) An unavoidable change in the veteran's conditions of employment,

(iv) An unavoidable geographical transfer resulting from the veteran's employment,

(v) Immediate family or financial obligations beyond the control of the veteran which require him or her to suspend pursuit of the program of education to obtain employment,

(vi) Discontinuance of the course by the educational institution,

(vii) Unanticipated active duty military service, including active duty for training.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525)

(20) *Nonpunitive grade*. The term "nonpunitive grade" has the same meaning as provided in § 21.4200(j) of this part.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525)

(21) *Normal commuting distance*. The term "normal commuting distance" has the same meaning as provided in § 21.4200(m) of this part.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

(22) *Professional or vocational objective*. A professional or vocational objective is one that leads to an occupation. It may include educational objectives essential to prepare for the chosen occupation. When a program consists of a series of courses not leading to an educational objective, these courses must be directed toward attainment of a designated professional or vocational objective.

(Authority: 38 U.S.C. 1402(3); Pub. L. 98-525)

(23) *Program of education*. A program of education—

(i) Is any unit course or subject or combination of courses or subjects pursued by a veteran or servicemember at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of 15 U.S.C. 636; or

(ii) Is a combination of subjects or unit courses pursued at an educational institution. The combination generally is accepted as necessary to meet requirements for a predetermined educational, professional or vocational objective. It may consist of subjects or courses which fulfill requirements for more than one objective if all objectives pursued are generally recognized as being related to a single career field.

(Authority: 38 U.S.C. 1402(3), 1652(b); Pub. L. 98-525)

(24) *Punitive grade*. The term "punitive grade" has the same meaning as provided in § 21.4200(k) of this part.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525)

(25) *Pursuit*. (i) The term "pursuit" means to work, while enrolled, toward the objective of a program of education. This work must be in accordance with approved institutional policy and regulations, and applicable criteria of title 38, United States Code; must be necessary to reach the program's

objective; and must be accomplished through—

(A) Resident courses (including teacher training courses and similar courses which the VA considers to be resident training).

(B) Independent study courses.

(C) A graduate program of research in absentia, or

(D) Medical-dental internships and residencies, nursing courses and other medical-dental specialty courses.

(ii) The VA will consider a veteran who qualifies for payment during an interval between terms or school closing, or who qualifies for payment during a holiday vacation to be in pursuit of a program of education during the interval, school closing, or holiday vacation.

(Authority: 38 U.S.C. 1434, 1780(g); Pub. L. 98-525)

(26) *Refresher course*. The term "refresher course" means a course at the elementary or secondary level to review or update material previously covered in a course that has been satisfactorily completed.

(Authority: 38 U.S.C. 1434; Pub. L. 98-525)

(27) *Remedial course*. The term "remedial course" means a course designed to overcome a deficiency at the elementary or secondary level in a particular area of study, or a handicap, such as in speech.

(Authority: 38 U.S.C. 1434, 38 U.S.C. 1691(a)(2); Pub. L. 98-525)

(28) *Secretary*. The term "Secretary" means the Secretary of Defense with respect to members of the Armed Forces under the jurisdiction of the Secretary of a military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(Authority: 38 U.S.C. 1402(5); Pub. L. 98-525)

(29) *School, educational institution, institution*. The terms "school, educational institution, and institution" means any vocational school, business school, junior college, teacher's college, college, normal school, professional school, university, or scientific or technical institution. They also mean any public or private elementary school or secondary school which offers courses for adults, provided that the courses lead to an objective other than an elementary school diploma, a high school diploma or their equivalents.

(Authority: 38 U.S.C. 1434, 1652; Pub. L. 98-525)

(30) *School year*. The term "school year" means generally a period of 2 semesters or 3 quarters which is not less

than 30 nor more than 39 weeks in total length.

(Authority: 38 U.S.C. 1434; Pub. L. 98-525)

(31) *Selected Reserve*. The term "Selected Reserve" means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b), 10 U.S. Code.

(Authority: 38 U.S.C. 1402(4); Pub. L. 98-525)

(32) *Standard class session*. The term "standard class session" has the same meaning as provided in § 21.4200(g) of this part.

(Authority: 38 U.S.C. 1434; 1788(c); Pub. L. 98-525)

(33) *Standard college degree*. The term "standard college degree" has the same meaning as provided in § 21.4200(e) of this part.

(Authority: 38 U.S.C. 1434, 1788; Pub. L. 98-525)

(34) *Supplemental educational assistance*. The term "supplemental educational assistance" means a benefit payable to a veteran or servicemember as a supplement to his or her basic educational assistance for pursuit of a program of education under 38 U.S.C. ch. 30.

(Authority: 38 U.S.C. 1402(2); Pub. L. 98-525)

Claims and Applications

§ 21.7030 Applications, claims and informal claims.

(a) *Applications*. (1) An individual must file all claims for educational assistance with the VA. The claims must be in the form prescribed by the Administrator.

(2) An individual on active duty must consult with his or her service education officer before applying for educational assistance.

(Authority: 38 U.S.C. 1434(a), 1671; Pub. L. 98-525)

(b) *Informal claim*. The VA will consider any communication from an individual, an authorized representative or a Member of Congress to be an informal claim if it indicates an intent to apply for educational assistance. Upon receipt of an informal claim, if a formal claim has not been filed, the VA will provide an application form to the claimant. If the VA receives the application form within one year from the date the VA provided it, the VA will consider the claim to have been filed on the date the VA received the informal claim.

(Authority: 38 U.S.C. 1434(a), 1671; Pub. L. 98-525)

(c) *Enrollment is not an informal claim.* The act of enrolling in an approved school does not in itself constitute an informal claim.

(Authority: 38 U.S.C. 1434(a), 1671; Pub. L. 98-525)

§ 21.7032 Time limits.

(a) *Scope of this section.* The provisions of this section are applicable to original applications, formal or informal, and to reopened claims.

(Authority: 38 U.S.C. 1434(a), 1671; Pub. L. 98-525)

(b) *Abandoned claim.* The VA will consider a claim to be abandoned when the VA requests evidence in connection with the claim, and the claimant does not furnish the evidence within one year of the date of the request. After the expiration of one year, the VA will not take further action unless a new claim is received.

(Authority: 38 U.S.C. 3003(a))

(c) *New claim.* When a claim has been abandoned, the VA will consider any subsequent communication which meets the requirements of an informal claim to be a new claim. The VA will consider the date of receipt of the subsequent communication to be the date of the new claim.

(Authority: 38 U.S.C. 1434(a), 1671; Pub. L. 98-525)

(d) *Failure to furnish form or notice of time limit.* Failure by the VA to furnish the veteran or servicemember any form or information concerning the right to file a claim or to furnish notice of the time limit for the filing of claim or for the completion of any action required will not extend the periods allowed for these actions.

(Authority: 38 U.S.C. 1434(a), 1671; Pub. L. 98-525)

(e) *Time limit for filing a claim for an extended period of eligibility.* A claim for an extended period of eligibility as described in § 21.7051 of this part must be received by the VA by the later of the following dates:

(1) One year from the date on which the veteran's original period of eligibility ended.

(2) One year from the date on which the physical or mental disability ceased to prevent the veteran from beginning or resuming his or her chosen program of education.

(Authority: 38 U.S.C. 1431(d); Pub. L. 98-525)

Eligibility

§ 21.7040 Eligibility for basic educational assistance.

Eligibility for basic educational assistance can be established by:

(a) Some individuals who first become members of the Armed Forces or who first enter on active duty as a member of the Armed Forces during the period beginning on July 1, 1985, and ending on June 30, 1988, and

(b) Some individuals who are eligible for educational assistance allowance under 38 U.S.C. ch. 34.

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 98-525)

§ 21.7042 Basic eligibility requirements.

An individual must meet the requirements of this section or § 21.7044 of this part in order to be eligible for basic educational assistance. In determining whether an individual has met the service requirements of this section, the VA will exclude any period during which the individual is not entitled to credit for service for the periods of time specified in § 3.15 of this chapter.

(a) *Eligibility based solely on active duty.* An individual may establish eligibility for basic educational assistance based on service on active duty under the following terms, conditions and requirements.

(1) The individual must during the period beginning on July 1, 1985, and ending on June 30, 1988, either

(i) First become a member of the Armed Forces, or

(ii) First enter on active duty as a member of the Armed Forces;

(2) Except as provided in paragraph (a)(5) of this section the individual must

(i) Serve at least three years of continuous active duty in the Armed Forces, or

(ii) In the case of an individual whose initial period of active duty is less than three years, serve at least two years of continuous active duty in the Armed Forces;

(3) The individual must receive a secondary school diploma (or an equivalency certificate) before completing the service requirements of this paragraph; and

(4) After completing the service requirements of this paragraph the individual must

(i) Continue on active duty, or

(ii) Be discharged from service with an honorable discharge, or

(iii) Be placed on the retired list, or

(iv) Be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or

(v) Be placed on the temporary disability retired list, or

(vi) Be released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(5) An individual who does not meet the requirements of paragraph (a)(2) of this section is eligible for basic educational assistance when he or she is discharged or released from active duty—

(i) For a service-connected disability, or

(ii) Under 10 U.S.C. 1173 (hardship discharge), or

(iii) For convenience of the government—

(A) After completing at least 20 months of active duty if his or her initial obligated period of active duty is less than three years, or

(B) After completing 30 months of active duty if his or her initial obligated period of active duty is at least three years.

(Authority: 38 U.S.C. 1411; Pub. L. 98-525)

(b) *Eligibility based on active duty service and service in the Selected Reserve.* An individual may establish eligibility for basic educational assistance based on a combination of service on active duty and service in the Selected Reserve under the following terms, conditions and requirements.

(1) The individual must, during the period beginning on July 1, 1985, and ending on June 30, 1988, either

(i) First become a member of the Armed Forces, or

(ii) First enter on active duty as a member of the Armed Forces;

(2) The individual must receive a secondary school diploma (or an equivalency certificate) before completing the service requirements of this paragraph;

(3) The individual must serve at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service.

(4) Except as provided in paragraph (b)(6) of this section, after completion of active duty service the individual must serve at least four continuous years service in the Selected Reserve, during which the individual must satisfactorily participate in training as prescribed by the Secretary concerned.

(5) The individual must, after completion of all service described in this paragraph

(i) Be discharged from service with an honorable discharge, or

(ii) Be placed on the retired list, or
 (iii) Be transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or

(iv) Continue on active duty, or
 (v) Continue in the Selected Reserve.

(6) An individual is exempt from serving four years in the Selected Reserve as provided in paragraph (b)(4) of this section when—

(i) After completion of the active duty service required by this paragraph the individual serves a continuous period of service in the Selected Reserve and is discharged or released from service in the Selected Reserve

(A) For a service-connected disability, or

(B) Under 10 U.S.C. 1173 (hardship discharge); or

(ii) After completion of the active duty service required by this paragraph the individual

(A) Serves at least three and one-half years continuous service in the Selected Reserve, and

(B) Is discharged for convenience of the government.

(7) For purposes of determining continuity of Selected Reserve service, the Secretary concerned may prescribe by regulation a maximum period of time during which the individual is considered to have continuous service in the Selected Reserve even though he or she

(i) Is unable to locate a unit of the Selected Reserve of the individual's Armed Force that the individual is eligible to join or that has a vacancy, or

(ii) Is not attached to a unit of the Selected Reserve for any reason prescribed by the Secretary concerned by regulation other than those stated in paragraph (b)(7)(i) of this section.

(8) Any decision as to the continuity of an individual's service in the Selected Reserve made by the Department of Defense or the Department of Transportation under regulations described in paragraph (b)(7) of this section shall be binding upon the VA.

(Authority: 38 U.S.C. 1411, 1412, Pub. L. 98-525)

(c) *Dual eligibility.* An individual who has established eligibility under paragraph (a) of this section through serving at least two years of continuous active duty of an initial obligated period of active duty of less than three years, as provided in paragraph (a)(2) of this section, may attempt to establish eligibility under paragraph (b) of this section through service in the Selected Reserve. If this veteran fails to establish

eligibility under paragraph (b) of this section, he or she will retain eligibility established under paragraph (a) of this section.

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 98-525)

(d) *Eligibility requirements for people on active duty.*

(1) An individual on active duty who does not have sufficient active duty service to establish eligibility under paragraph (a) of this section, nevertheless is eligible to receive basic educational assistance when he or she

(i) During the period beginning on July 1, 1985, and ending on June 30, 1988 either

(A) First becomes a member of the Armed Forces, or

(B) First enters on active duty as a member of the Armed Forces;

(ii) Receives a secondary school diploma (or an equivalency certificate) before beginning training;

(iii) Serves at least two years of continuous active duty in the Armed Forces; and

(iv) Remains on active duty.

(2) The VA will consider an individual to have met the requirements of paragraph (b) this section, when he or she

(i) Has met the active duty requirements of paragraph (b) this section,

(ii) Is committed to serve four years in the Selected Reserve, and

(iii) Has obtained a high school diploma (or equivalency certificate) before beginning the training for which he or she wishes to receive educational assistance.

(3) An individual who establishes basic eligibility under this paragraph shall lose that eligibility if, upon discharge or release from active duty, he or she is unable to establish eligibility under any of the other paragraphs of this section. The effective date for that loss of eligibility is the date the veteran was discharged or released from active duty.

(Authority: 38 U.S.C. 1411, 1412, 1416; Pub. L. 98-525)

(e) *Restrictions on establishing eligibility.* Notwithstanding any other provision of this section, an individual described in either paragraph (e) (1) or (2) of this section is not eligible for basic educational assistance.

(1) An individual who, during the period beginning on July 1, 1985, and ending on June 30, 1988, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces, may elect not to receive educational assistance under 38 U.S.C.

ch. 30. This election must be made at the time the individual initially enters on active duty as a member of the Armed Forces. An individual who makes such an election is not eligible for educational assistance under 38 U.S.C. ch. 30.

(2) An individual is not eligible for educational assistance under 38 U.S.C. ch. 30, after December 31, 1976, if he or she receives a commission as an officer in the Armed Forces upon

(i) Graduation from

(A) The United States Military Academy, or

(B) The United States Naval Academy, or

(C) The United States Air Force Academy, or

(D) The Coast Guard Academy; or

(ii) Completion of a program of educational assistance under 10 U.S.C. 2107 (the Reserve Officers Training Corps Scholarship Program).

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 98-525)

(f) *Reduction in basic pay.* (1) The basic pay of any individual described in paragraphs (a), (b), or (c) of this section shall be reduced by \$100 for each of the first 12 months that the individual is entitled to basic pay. If the individual does not serve 12 months, it shall be reduced by \$100 for each month that the individual is entitled to basic pay.

(2) The basic pay of any individual who makes the election described in paragraph (d)(1) of this section will not be subject to the reduction described in paragraph (1) of this section.

(3) If through administrative error or other reason the basic pay of an individual described in paragraph (a), (b), or (c) of this section is not reduced as provided in paragraph (f)(1) of this section, the failure to make the reduction will have no effect on his or her eligibility.

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 98-525)

§ 21.7044 Persons with 38 U.S.C. ch. 34 eligibility.

Certain individuals with 38 U.S.C. ch. 34 eligibility may establish eligibility for educational assistance under 38 U.S.C. ch. 30. In determining whether an individual has met the service requirements of this section, the VA will exclude any period during which the individual is not entitled to credit for service for periods of time specified in § 3.15 of this chapter.

(a) *Eligibility based solely on active duty.* An individual may establish eligibility for basic educational assistance based on service on active

duty under the following terms, conditions, and requirements—

(1) The individual must have met the requirements of § 21.1040 of this part establishing eligibility for educational assistance allowance under 38 U.S.C. ch. 34;

(2) As of December 31, 1989, the individual must have entitlement remaining for educational assistance allowance under 38 U.S.C. ch. 34;

(3) The individual must receive a secondary school diploma (or an equivalency certificate) before completing the service requirements of this paragraph;

(4) After June 30, 1985—

(i) The individual must serve at least three years continuous active duty in the Armed Forces, or

(ii) Be discharged or released from active duty—

(A) For a service-connected disability,

(B) Under 10 U.S.C. 1173 (hardship discharge), or

(C) For the convenience of the government provided the individual completes at least 30 months of active duty;

(5) Upon completion of the requisite active duty service the individual must either—

(i) Remain on active duty, or

(ii) Be discharged from service with an honorable discharge, or

(iii) Be placed on the retired list, or

(iv) Be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or

(v) Be placed on the temporary disability retired list, or

(vi) Be released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(Authority: 38 U.S.C. 1411; Pub. L. 98-525, Pub. L. 99-145)

(b) *Eligibility based on combined active duty service and service in the Selected Reserve.* An individual may establish eligibility for basic educational assistance based on a combination of service on active duty and service in the Selected Reserve under the following terms, conditions and requirements.

(1) The individual must have met the requirements of § 21.1040 of this part establishing eligibility for educational assistance allowance under 38 U.S.C. ch. 34;

(2) As of December 31, 1989, the individual must have entitlement remaining for educational assistance allowance under 38 U.S.C. ch. 34;

(3) The individual must receive a secondary school diploma (or an

equivalency certificate) before completing the service requirements of this paragraph;

(4) After June 30, 1985, the individual must

(i) Serve at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service, and

(ii) Except as provided in paragraph (b)(6) of this section, after completion of this active duty service, the individual must serve at least four continuous years service in the Selected Reserve, during which the individual must participate satisfactorily in training as prescribed by the Secretary concerned.

(5) The individual also must—

(i) Be discharged from service with an honorable discharge, or

(ii) Be placed on the retired list, or

(iii) Be transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or

(iv) Continue on active duty, or

(v) Continue in the Selected Reserve.

(6) An individual is exempt from serving four years in the Selected Reserve as provided in paragraph (b)(4) of this section when after completion of the active duty service required by this paragraph he or she—

(i) Serves a continuous period of service in the Selected Reserve, and

(A) Is discharged for a service-connected disability, or
(B) Is discharged under 10 U.S.C. 1173 (hardship discharge); or

(ii) After having served at least three and one-half years continuous service in the Selected Reserve, is discharged for convenience of the government

(7) For veterans who wish to pursue a program of education before completing four years service in the Selected Reserve, the VA will consider that the four-year requirement is met if the veteran has made a commitment (as determined by the Secretary concerned) to serve four continuous years in the Selected Reserve.

(8) For the purpose of determining continuity of Selected Reserve service, the Secretary concerned may prescribe by regulation a maximum period of time during which the individual is considered to have continuous service in the Selected Reserve even though he or she—

(i) Is unable to locate a unit of the Selected Reserve of the individual's Armed Force that the individual is eligible to join or that has a vacancy, or

(ii) Is not attached to a unit of the Selected Reserve for any reason prescribed by the Secretary concerned

by regulation other than those stated in paragraph (b)(8)(i) of this section.

(9) Any decision as to the continuity of an individual's service in the Selected Reserve made by the Department of Defense or the Department of Transportation under regulations described in paragraph (b) (7) or (8) of this section shall be binding upon the VA.

(Authority: 38 U.S.C. 1411, 1412, 1416; Pub. L. 98-525)

(c) *Eligibility requirements for people on active duty.* (1) An individual on active duty who does not have sufficient active duty service after June 30, 1985, to establish eligibility under paragraph (a) of this section, nevertheless is eligible to receive basic educational assistance when he or she

(i) During the period beginning on July 1, 1985, and ending on June 30, 1988, either—

(A) First becomes a member of the Armed Forces, or

(B) First enters on active duty as a member of the Armed Forces;

(ii) Receives a secondary school diploma (or an equivalency certificate) before beginning training;

(iii) Serves at least two years of continuous active duty in the Armed Forces; and

(iv) Remains on active duty.

(2) The VA will consider an individual to have met the requirements of this section, when he or she—

(i) Has met the active duty requirements of paragraph (b) of this section,

(ii) Is committed to serve four years in the Selected Reserve, and

(iii) Has obtained a high school diploma (or equivalency certificate) before beginning the training for which he or she wishes to receive educational assistance.

(3) An individual who establishes basic eligibility under this paragraph shall lose that eligibility if, upon discharge or release from active duty, he or she is unable to establish eligibility under any of the other paragraphs of this section. The effective date for that loss of eligibility is the date the veteran was discharged or released from active duty.

(Authority: 38 U.S.C. 1411, 1412, 1416; Pub. L. 98-525, Pub. L. 99-145)

(d) *Restrictions on establishing eligibility.* Notwithstanding any other provision of this section an individual is not eligible for educational assistance under 38 U.S.C. ch. 30 if he or she after December 31, 1976, receives a commission as an officer in the Armed Forces—

(1) Upon graduation from—

(i) The United States Military Academy, or

(ii) The United States Naval Academy, or

(iii) The United States Air Force Academy, or

(iv) The Coast Guard Academy; or

(2) Upon completion of a program of educational assistance under 10 U.S.C. 2107 (the Reserve Officers Training Corps Scholarship Program).

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 98-525)

§ 21.7046 Eligibility for supplemental educational assistance.

The Secretary concerned, pursuant to regulations prescribed by that Secretary, has the discretion to provide for the payment of supplemental educational assistance to certain veterans and servicemembers eligible for basic educational assistance.

(a) *Service requirements: eligibility based only on active duty service.* The Secretary concerned may authorize supplemental educational assistance to an individual who is eligible for basic educational assistance under § 21.7042 or § 21.7044 of this part based solely on active duty service only if the individual meets the provisions of this paragraph.

(1) An individual may establish eligibility for supplemental educational assistance by serving five or more consecutive years of active duty in the Armed Forces in addition to the years counted to qualify the individual for basic educational assistance without a break in any such service.

(2) After completion of the service described in paragraph (a)(1) of this section the individual must either—

(i) Continue on active duty without a break,

(ii) Be discharged from service with an honorable discharge,

(iii) Be placed on the retired list,

(iv) Be transferred to the Fleet Reserve or the Fleet Marine Corps Reserve,

(v) Be placed on the temporary disability retired list, or

(vi) Be released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(Authority: 38 U.S.C. 1421(a); Pub. L. 98-525)

(b) *Service requirements: eligibility based on service in the Selected Reserve.* The Secretary concerned (pursuant to regulations which he or she may prescribe) has the discretion to authorize supplemental educational assistance to an individual who is eligible for basic educational assistance

under § 21.7042 or § 21.7044 of this part through consideration of additional active duty service and additional service in the Selected Reserve only if the individual meets the provisions of this paragraph.

(1) The individual must serve—

(i) Two or more consecutive years of active duty in the Armed Forces in addition to the years on active duty counted to qualify the individual for basic educational assistance, and

(ii) Four or more consecutive years of duty in the Selected Reserve in addition to the years of duty in the Selected Reserve counted to qualify the individual for basic educational assistance.

(2) The individual after completion of the service described in paragraph (b)(1) must—

(i) Be discharged from service with an honorable discharge, or

(ii) Be placed on the retired list, or

(iii) Be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or

(iv) Be placed on the temporary disability retired list, or

(v) Continue on active duty, or

(vi) Continue in the Selected Reserve.

(3) The Secretary concerned may prescribe by regulation a maximum period of time during which the individual is considered to have continuous service in the Selected Reserve even though he or she is unable to locate a unit of the Selected Reserve of the individual's Armed Force that the individual is eligible to join or that has a vacancy.

(4) The Secretary concerned may prescribe by regulation a maximum period of time during which the individual is considered to have continuous service in the Selected Reserve even though he or she is not attached to a unit of the Selected Reserve for any reason (also to be prescribed by the Secretary concerned by regulation) other than those stated in paragraph (b)(3) of this section.

(5) Any decision as to the continuity of an individual's service in the Selected Reserve made by the Department of Defense or the Department of Transportation under regulations described in paragraph (b) (3) or (4) of this section shall be binding upon the VA.

(Authority: 38 U.S.C. 1421(a); Pub. L. 98-525)

§ 21.7050 Ending dates of eligibility.

The ending date of eligibility will be determined as follows:

(a) *Ten-year time limitation.* Except as provided in § 21.7051 of this part the VA will not provide basic education assistance or supplemental educational

assistance to a veteran or servicemember after the later of the following:

(1) Ten years from the date of the veteran's last discharge or release from active duty, or

(2) Ten years from the last day on which the individual becomes entitled to educational assistance.

(Authority: 38 U.S.C. 1431(a); Pub. L. 98-525)

(b) *Correction of military records.* A veteran may become eligible for educational assistance as the result of a correction of military records under 10 U.S.C. 1552, or change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553, or other corrective action by competent military authority. When this occurs, the VA will not provide educational assistance later than 10 years from the date his or her dismissal or discharge was changed, corrected or modified (except as provided in § 21.7051 of this part).

(Authority: 38 U.S.C. 1431(b); Pub. L. 98-525)

(c) *Periods excluded.* The VA will not include in computing the 10-year period of eligibility for educational assistance under this section, any period during which the veteran after his or her last discharge or release from active duty—

(1) Was captured and held as a prisoner of war by a foreign government or power, or

(2) Immediately following the veteran's release from this detention during which he or she was hospitalized at a military, civilian or VA medical facility.

(Authority: 38 U.S.C. 1431(c); Pub. L. 98-525)

§ 21.7051 Extended period of eligibility.

(a) *Period of eligibility may be extended.* The VA shall grant an extension of the applicable delimiting period, as otherwise determined by § 21.7050 of this part provided:

(1) The veteran applies for an extension within the time specified in § 21.7032(e) of this part.

(2) The veteran was prevented from initiating or completing the chosen program of education within the otherwise applicable eligibility period because of a physical or mental disability that did not result from the veteran's willful misconduct. It must be clearly established by medical evidence that such a program of education was medically infeasible. The VA will not consider a veteran who is disabled for a period of 30 days or less as having been prevented from initiating or completing a chosen program, unless the evidence establishes that the veteran was prevented from enrolling or reenrolling

in the chosen program or was forced to discontinue attendance, because of the short disability.

(Authority: 38 U.S.C. 1431(d); Pub. L. 98-525)

(b) *Commencing date.* The veteran shall elect the commencing date of an extended period of eligibility. The date chosen—

(1) Must be on or after the original date of expiration of eligibility as determined by § 21.7050 of this part, and

(2) Must either be—

(i) On or before the 90th day following the date on which the veteran's application for an extension was approved by the VA, if the veteran is training during the extended period of eligibility in a course not organized on a term, quarter or semester basis, or

(ii) On or before the commencing date of the first ordinary term, quarter or semester following the 90th day after the veteran's application for an extension was approved by the VA, if the veteran is training during the extended period of eligibility in a course organized on a term, quarter or semester basis.

(Authority: 38 U.S.C. 1431(d); Pub. L. 98-525)

(c) *Length of extended periods of eligibility.* A veteran's extended period of eligibility shall be for the length of time that the individual was prevented from initiating or completing his or her chosen program of education. This shall be determined as follows:

(1) If the veteran is in training in a course organized on a term, quarter or semester basis, his or her extended period of eligibility shall contain the same number of days as the number of days from the date during the veteran's original eligibility period that his or her training became medically infeasible to the earliest of the following date.

(i) The commencing date of the ordinary term, quarter or semester following the day the veteran's training became medically infeasible,

(ii) The last date of the veteran's delimiting date as determined by § 21.7050 of this part, or

(iii) The date the veteran resumed training.

(2) If the veteran is training in a course not organized on a term, quarter or semester basis, his or her extended period of eligibility shall contain the same number of days as the number of days from the date during the veteran's original delimiting period that his or her training became medically infeasible to the earlier of the following dates:

(i) The date the veteran's training became medically feasible, or

(ii) The veteran's delimiting date as determined by § 21.7050 of this part.

(Authority: 38 U.S.C. 1431(d); Pub. L. 98-525)

Entitlement

§ 21.7070 Entitlement.

An eligible servicemember or veteran is entitled to a monthly benefit for periods of time during which he or she is enrolled in, and satisfactorily pursuing, an approved program of education.

(Authority: 38 U.S.C. 1414; Pub. L. 98-525)

§ 21.7072 Entitlement to basic educational assistance.

(a) *Most individuals are entitled to 36 months of assistance.* Except as provided in paragraphs (b), (c) and (d) of this section, a veteran or servicemember who is eligible for basic educational assistance is entitled to 36 months of basic educational assistance (or the equivalent thereof in part-time educational assistance).

(Authority: 38 U.S.C. 1413; Pub. L. 98-525)

(b) *Entitlement; individual discharged for service-connected disability or hardship.* (1) An eligible individual is entitled to one month of basic educational assistance (or equivalent thereof in part-time basic educational assistance) for each month of the individual's active duty service when the individual—

(i) Establishes eligibility through meeting the eligibility requirements of § 21.7042 or § 21.7044 of this part,

(ii) Serves less than 36 months of continuous active duty service after June 30, 1985 (or less than 24 months of continuous active duty service after June 30, 1985, if his or her initial obligated period of active duty is less than 3 years), and

(iii) Is discharged or released from active duty either for a service-connected disability, or under 10 U.S.C. 1173 (hardship discharge).

(2) Entitlement will be calculated in whole months.

(3) The following types of time lost are not countable in determining the extent of a veteran's or servicemember's entitlement:

- (i) Excess leave,
- (ii) Noncreditable time, and
- (iii) Not-on-duty time.

(Authority: 38 U.S.C. 1413(a); Pub. L. 98-525)

(c) *Entitlement based on service in the Selected Reserve.*

(1) An individual is entitled to one month of basic educational assistance (or the equivalent thereof in part-time basic educational assistance) for each month of the individual's active duty service after June 30, 1985, and one month of basic educational assistance (or the equivalent thereof in part-time basic educational assistance) for each four months served by the individual in

the Selected Reserve (other than a month in which the individual serves on active duty) when the individual—

(i) Establishes eligibility through meeting the eligibility requirements of § 21.7042 or § 21.7044 of this part, and

(ii) Bases his or her eligibility upon a combination of service on active duty and service in the Selected Reserve as described in § 21.7042(b) and § 21.7044(b) of this part.

(2) Entitlement will be calculated in whole months.

(3) The following types of time lost are not countable in determining the extent of a veteran's or servicemember's entitlement:

- (i) Excess leave,
- (ii) Noncreditable time, and
- (iii) Not-on-duty time.

(4) A veteran described in this paragraph is not entitled to any basic educational assistance for service in the Selected Reserve in excess of the number of months of service in the Selected Reserve which is evenly divisible by four.

(5) The VA will consider a veteran to be entitled to 36 months of basic educational assistance when he or she—

(i) Initially enters on active duty after June 30, 1985;

(ii) Is attempting to establish eligibility through service in the Selected Reserve;

(iii) Has completed the active duty service required in § 21.7042 of this part; and

(iv) Is participating in the Selected Reserve, but has not participated for the length of time required in § 21.7042 of this part.

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 98-525)

(d) *Entitlement affected by failure to complete required Selected Reserve service.* If a veteran attempts to establish eligibility through a combination of active duty service and service in the Selected Reserves, but fails to do so, his or her entitlement shall be the number of months to which he or she is entitled on the basis of his or her active duty service.

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 98-525)

(e) *Repayment of an education loan affects entitlement.* A period of service counted for the purpose of repayment under section 902 of the Department of Defense Authorization Act, 1981, of an education loan may not also be counted for the purposes of determining the number of months of the veteran's or servicemember's entitlement to basic educational assistance. Therefore, in determining a veteran's or

servicemember's entitlement, the VA will—

(1) Determine his or her entitlement as provided in paragraph (a), (b), (c) or (d) of this section, as appropriate, and

(2) Subtract from the figure determined in paragraph (e)(1) of this section the number of months of service counted for the purposes of repayment of an educational loan under section 902 of the Department of Defense Authorization Act, 1981.

(Authority: 38 U.S.C. 1433(b); Pub. L. 98-525)

(f) *Limitation on entitlement.* Except as provided in § 21.7135(s) of this part no one is entitled to more than 36 months of full-time basic educational assistance (or its equivalent in part-time educational assistance).

(Authority: 38 U.S.C. 1413(c); Pub. L. 98-525)

§ 21.7074 Entitlement to supplemental educational assistance.

In determining the entitlement of a veteran or servicemember who is eligible for supplemental educational assistance the VA shall—

(a) Calculate the veteran's or servicemember's entitlement to basic educational assistance on the day he or she establishes eligibility for supplemental educational assistance, and

(b) Credit the veteran or servicemember with the same number of months and days entitlement to supplemental educational assistance as the number calculated in paragraph (a) of this section.

(Authority: 38 U.S.C. 1423; Pub. L. 98-525)

§ 21.7076 Entitlement charges.

(a) *Overview.* The VA will make charges against entitlement as stated in this section. Charges will be made against the entitlement the veteran or servicemember has to educational assistance under 38 U.S.C. ch. 30. After December 31, 1989, there will be a charge (for record purposes only) against the entitlement, if any, which he or she may have under 38 U.S.C. ch. 34. The charges against entitlement under 38 U.S.C. ch. 34 will not count against the 48 months of total entitlement under both 38 U.S.C. chs. 30 and 34 to which the veteran or servicemember may be entitled. (See § 21.4020(a) of this part). Charges are based upon the principle that a veteran or servicemember who trains full time for one day should be charged one day of entitlement. The provisions of this section apply to—

(1) Veterans and servicemembers training under 38 U.S.C. ch. 30, and

(2) Veterans training under 38 U.S.C. ch. 31 who make a valid election under

§ 21.21 of this chapter to receive educational assistance equivalent to that paid to veterans under 38 U.S.C. ch. 30.

(Authority: 38 U.S.C. 1413; Pub. L. 98-525)

(b) *Determining entitlement charge.*

(1) The VA will make a charge against entitlement—

(i) On the basis of total elapsed time (one day for each day of pursuit) if the servicemember or veteran is pursuing the program of education on a full-time basis,

(ii) On the basis of a proportionate rate of elapsed time, if the veteran or servicemember is pursuing the program of education on a three-quarter, one-half or less than one-half time basis. For the purpose of this computation, training time which is less than one-half, but more than one-quarter time, will be treated as though it were one-quarter time training.

(2) The VA will compute elapsed time from the commencing date of the award to date of discontinuance. If the veteran or servicemember changes his or her training time after the commencing date of the award, the VA will—

(i) Divide the enrollment period into separate periods of time during which the veteran's or servicemember's training time remains constant, and

(ii) Compute the elapsed time separately for each time period.

(Authority: 38 U.S.C. 1413; Pub. L. 98-525)

(c) *Overpayment cases.* The VA will make a charge against entitlement for an overpayment only if the overpayment is discharged in bankruptcy; is waived, and is not recovered; or is compromised.

(1) If the overpayment is discharged in bankruptcy or is waived and is not recovered, the charge against entitlement will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(2) If the overpayment is compromised and the compromise offer is less than the amount of interest, administrative costs of collection, court costs and marshal fees, the charge against entitlement will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(3) If the overpayment is compromised and the compromise offer is equal to or greater than the amount of interest, administrative costs of collection, court costs and marshal fees, the charge against entitlement will be determined by—

(i) Subtracting the portion of the debt attributable to interest, administrative costs of collection, court costs and marshal fees from the compromise offer,

(ii) Subtracting the amount determined in paragraph (c)(3)(i) of this section from the amount of the original debt (exclusive of interest, administrative costs of collection, court costs and marshal fees),

(iii) Dividing the result obtained in paragraph (c)(3)(ii) of this section by the amount of the original debt (exclusive of interest, administrative costs of collection, court costs and marshal fees), and

(iv) Multiplying the percentage obtained in paragraph (c)(3)(iii) of this section by the amount of the entitlement which represents the whole overpaid period.

(Authority: 38 U.S.C. 1413; Pub. L. 98-525)

(d) *Interruption to conserve entitlement.* A veteran may not interrupt a certified period of enrollment for the purpose of conserving entitlement. An educational institution may not certify a period of enrollment for a fractional part of the normal term, quarter or semester, if the veteran or servicemember is enrolled for the entire term, quarter or semester. The VA will make a charge against entitlement for the entire period of certified enrollment, if the veteran or servicemember is otherwise eligible for educational assistance, except when educational assistance is interrupted under any of the following conditions:

(1) Enrollment is terminated;

(2) The veteran or servicemember cancels his or her enrollment, and does not negotiate an educational assistance check for any part of the certified period of enrollment;

(3) The veteran or servicemember interrupts his or her enrollment at the end of any term, quarter or semester within the certified period of enrollment, and does not negotiate a check for educational assistance for the succeeding term, quarter or semester;

(4) The veteran or servicemember requests interruption or cancellation for any break when a school was closed during a certified period of enrollment, and the VA continued payments under an established policy based upon an Executive Order of the President or an emergency situation. Whether the veteran or servicemember negotiated a check for educational assistance for the certified period is immaterial.

(Authority: 38 U.S.C. 1413; Pub. L. 98-525)

Counseling**§ 21.7100 Counseling.**

A veteran or servicemember may receive counseling from the VA before beginning training and during training.

(a) *Purpose.* The purpose of counseling is

- (1) To assist in selecting an objective;
- (2) To develop a suitable program of education;
- (3) To select an educational institution appropriate for the attainment of the educational objective;
- (4) To resolve any personal problems which are likely to interfere with the successful pursuit of a program; and
- (5) To select an employment objective for the veteran that would be likely to provide the veteran with satisfactory employment opportunities in light of his or her personal circumstances.

(Authority: 38 U.S.C. 1434, 1663; Pub. L. 98-525)

(b) *Counseling not required.* Counseling is never required for those individuals eligible for educational assistance established under 38 U.S.C. ch. 30.

(Authority: 38 U.S.C. 1434, 1663; Pub. L. 98-525)

(c) *Availability of counseling.* Counseling is available for—

- (1) Identifying and removing reasons for academic difficulties which may result in interruption or discontinuance of training, or
- (2) In considering changes in career plans and making sound decisions about the changes.

(Authority: 38 U.S.C. 1434, 1663; Pub. L. 98-525)

(d) *Requested counseling.* The VA shall provide counseling as needed for the purpose identified in paragraphs (a) and (c) of this section upon request of the individual. The VA shall take appropriate steps (including individual notification where feasible) to acquaint veterans and servicemembers with the availability and advantages of counseling services.

(Authority: 38 U.S.C. 1434, 1663; Pub. L. 98-525)

§ 21.7103 Travel expenses.

The VA will not pay for any costs of travel to and from the place of counseling for anyone who requests counseling under 38 U.S.C. ch. 30.

(Authority: 38 U.S.C. 111)

Programs of Education**§ 21.7110 Selection of a program of education.**

(a) *General requirement.* An individual must be pursuing an approved program of education in order to receive educational assistance.

(Authority: 38 U.S.C. 1414, 1423; Pub. L. 98-525)

(b) *Approval of a program of education.* The VA will approve a program of education under 38 U.S.C. ch. 30 selected by an eligible veteran or servicemember if—

- (1) It meets the definition of a program of education found in § 21.7020(b)(22) of this part,
- (2) It has an objective as described in § 21.7020(b) (13) or (21) of this part,
- (3) The courses and subjects in the program are approved for VA training, and
- (4) The veteran or servicemember is not already qualified for the objective of the program.

(Authority: 38 U.S.C. 1402(3), 1434, 1671; Pub. L. 98-525)

§ 21.7112 Programs of education combining two or more types of courses.

An approved program may consist of courses offered by two educational institutions concurrently, or courses offered through class attendance and by television concurrently. An educational institution may contract the actual training to another educational institution or entity, provided the course is approved by the State approving agency having approval jurisdiction of the educational institution or entity which actually provides the training.

(a) *Concurrent enrollment.* When a veteran or servicemember cannot successfully schedule his or her complete program at one educational institution, the VA may approve a program of concurrent enrollment. When requesting such a program the veteran or servicemember must show that his or her complete program of education is not available at the educational institution in which he or she will pursue the major portion of his or her program (the primary educational institution), or that it cannot be scheduled successfully within the period in which he or she plans to complete his or her program.

- (1) When the standards for measurement of the courses pursued concurrently in the two educational institutions are different, the extent of the course will be determined by converting the measurement of courses in the second educational institution to its equivalent in value to measurement required for full-time courses in the

primary educational institution; e.g., school courses on a clock-hour basis converted to its equivalent in value to semester hours of credit will be .56 semester credits (14/25) or .46 semester credits (14/30), as applicable, for each clock hour of attendance.

(2) The veteran or servicemember must submit the monthly certification of attendance and pursuit. Each educational institution where concurrent enrollment is approved must either endorse that certification, or submit a separate certification showing the veteran's or servicemember's enrollment and pursuit.

(Authority: 38 U.S.C. 1434(b); Pub. L. 98-525)

(b) *Courses offered under contract.* In administering benefits payable under 38 U.S.C. ch. 30, the VA will apply the provisions of § 21.4233(e) of this part in the same manner as they are applied under 38 U.S.C. ch. 34.

(Authority: 38 U.S.C. 1434(a); Pub. L. 98-525)

(c) *Television.* In determining whether a veteran or servicemember may pursue part of a program of education under 38 U.S.C. ch. 30 by television, the VA will apply the provisions of § 21.4233(c) of this part in the same manner as they are applied in making similar determinations for people training under 38 U.S.C. ch. 34 and 36.

(Authority: 38 U.S.C. 1434, 1673(c); Pub. L. 98-525)

§ 21.7114 Change of program.

In determining whether a veteran or servicemember may change his or her program of education under 38 U.S.C. ch. 30, the VA will apply the provisions of § 21.4234 of this part in the same manner as they are applied in making similar determinations for veterans training under 38 U.S.C. ch. 34. The VA will not consider programs of education a veteran or a servicemember may have pursued under 38 U.S.C. ch. 34 or 36 before January 1, 1990, if he or she wishes to change programs of education under 38 U.S.C. ch. 30.

(Authority: 38 U.S.C. 1434, 1791; Pub. L. 98-525)

Courses**§ 21.7120 Courses included in programs of education.**

(a) *General.* Generally, the VA will approve, and will authorize payment of educational assistance, for the individual's enrollment in any course or subject which a State approving agency has approved as provided in § 21.7220 of this part and which forms a part of a program of education as defined in § 21.7020(b)(22) of this part. Restrictions

on this general rule are stated in § 21.7222(b) of this part, however.

(Authority: 38 U.S.C. 1402(3), 1652; Pub. L. 98-525)

(b) *Avocational and recreational courses are restricted.*

(1) The VA will not pay educational assistance for an enrollment in any course—

(i) Which is avocational or recreational in character, or

(ii) The advertising for which contains significant avocational or recreational themes.

(2) The VA presumes that the following courses are avocational or recreational in character unless the veteran or servicemember justifies their pursuit to the VA as provided in paragraph (b)(3) of this section. The courses are:

(i) Any photography course or entertainment course, or

(ii) Any music course, instrumental or vocal, public speaking course or courses in dancing, sports or athletics, such as horseback riding, swimming, fishing, skiing, golf, baseball, tennis, bowling, sports officiating, or other sport or athletic courses, except courses of applied music, physical education, or public speaking which are offered by institutions of higher learning for credit as an integral part of a program leading to an educational objective, or

(iii) Any other type of course which the VA determines to be avocational or recreational.

(3) To overcome the presumption that a course is avocational or recreational in character, the veteran or servicemember must establish that the course will be of bona fide use in the pursuit of his or her present or contemplated business or occupation.

(Authority: 38 U.S.C. 1434, 1673; Pub. L. 98-525)

(c) *Flight training.* The VA may pay educational assistance for an enrollment in a flight training course only if an institution of higher learning offers the course for credit toward the standard college degree the veteran or servicemember is pursuing. The VA will not otherwise approve an enrollment in a flight training course.

(Authority: 38 U.S.C. 1414, 1423; Pub. L. 98-525)

§ 21.7122 Courses precluded.

(a) *Unapproved courses.* The VA will not pay educational assistance for an enrollment in any course which has not been approved by a State approving agency or by the VA when that agency acts as a State approving agency. The VA will not pay educational assistance

for a new enrollment in a course when a State approving agency has suspended the approval of the course for new enrollments, nor for any period within any enrollment after the date the State approving agency disapproves a course. See § 21.7220 of this part.

(Authority: 38 U.S.C. 1434, 1772; Pub. L. 98-525)

(b) *Courses outside a program of education.* The VA will not pay educational assistance for an enrollment in any course which is not part of a veteran's or servicemember's program of education.

(Authority: 38 U.S.C. 1402(3), 1652(b); Pub. L. 98-525)

(c) *Erroneous, deceptive, misleading practices.* The VA will not pay educational assistance for an enrollment in any course offered by an educational institution which uses advertising, sales or enrollment practices which are erroneous, deceptive or misleading by actual statement, omission or intimation. The VA will apply the provisions of § 21.4252(h) of this part in making these decisions with regard to enrollments under 38 U.S.C. ch. 30 as it does in making similar decisions with regard to enrollments under 38 U.S.C. ch. 34.

(Authority: 38 U.S.C. 1434, 1796; Pub. L. 98-525)

(d) *Restrictions on enrollment: percentage of students receiving financial support.* Except as otherwise provided the VA shall not approve an enrollment in any course for a veteran or servicemember, not already enrolled for any period during which more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees or other charges paid for them by the educational institution or by the VA pursuant to title 38, United States Code. This restriction may be waived in whole or in part. In determining which courses to apply this restriction to and whether to waive this restriction, the VA will apply the provisions of § 21.4201 of this part to enrollments under 38 U.S.C. ch. 30 in the same manner as it does to enrollments under 38 U.S.C. ch. 34.

(Authority: 38 U.S.C. 1434, 1673(d); Pub. L. 98-525)

(e) *Other courses.* The VA shall not pay educational assistance for—

(1) An audited course (see § 21.4252(i) of this part),

(2) A course for which the veteran or servicemember received a nonpunitive grade in the absence of mitigating circumstances (see § 21.4252(j) of this part),

(3) New enrollments in a course where approval has been suspended by a State approving agency,

(4) Certain courses being pursued by nonmatriculated students as provided in § 21.4252(l) of this part,

(5) A course from which the veteran or servicemember withdrew without mitigating circumstances,

(6) Correspondence courses, or

(7) An enrollment in a course offered by a proprietary school when the veteran or servicemember is an official of the school authorized to sign certificates of enrollment or monthly certificates of attendance or monthly verifications of pursuit, an owner or an operator.

(Authority: 38 U.S.C. 1402(3), 1434, 1772(a), 1780(a); Pub. L. 98-525)

§ 21.7124 Overcharges.

The VA may disapprove an educational institution for further enrollments, when the educational institution charges or receives from a veteran or servicemember tuition and fees that exceed the established charges which the educational institution requires from similarly circumstanced nonveterans enrolled in the same course.

(Authority: 38 U.S.C. 1434, 1790; Pub. L. 98-525)

Payments-Educational Assistance

§ 21.7130 Educational assistance.

The VA will pay educational assistance to an eligible veteran or servicemember while he or she is pursuing approved courses in a program of education at the rates specified in §§ 21.7136, 21.7137 and 21.7139 of this part.

(Authority: 38 U.S.C. 1415, 1422, 1432; Pub. L. 98-525)

§ 21.7131 Commencing dates.

The commencing date of an award or increased award of educational assistance will be determined under this section.

(a) *Entrance or reentrance including change of program, training time, or educational institution.* When an eligible veteran or servicemember enters or reenters into training, the commencing date of his or her award of educational assistance shall be the latest of the following dates.

(1) The date the educational institution certifies under paragraph (b) or (c) of this section.

(2) The date one year before the VA receives the veteran's or servicemember's application or

enrollment certification, whichever is the later. (See § 21.7032 of this part)

(3) The effective date of the approval of the course, or one year before the date the VA receives the approval notice, whichever is later.

(4) The date of reopened application under paragraph (d) of this section.

(Authority: 38 U.S.C. 1414, 1423, 1434, 1772; Pub. L. 98-525)

(b) *Certification by the educational institution—the course or subject leads to a standard college degree.* (1) When the student enrolls in any course or subject other than one described in paragraph (b) (2) or (c) of this section, the commencing date of the award or increased award of educational assistance will be—

(i) The date of registration in the term, quarter or semester, or

(ii) The date of reporting when the individual is required by the published standards of the educational institution to report in advance of registration.

(2) When the student enrolls in a resident course or subject leading to a standard college degree and the first day of classes does not occur before the end of the first regularly scheduled calendar week of classes during a term, quarter or semester, the commencing date of the award or increased award of educational assistance will be the first day of classes.

(3) When the student enrolls in a resident course or subject leading to a standard college degree and the first day of classes is more than 14 days after the date of registration, the commencing date of the award or the increased award of educational assistance will be the first day of classes.

(Authority: 38 U.S.C. 1414, 1423; Pub. L. 98-525)

(c) *Certification by educational institution—course does not lead to a standard college degree.* When a veteran or servicemember enrolls in a course not leading to a standard college degree, the commencing date of the award of educational assistance shall be the first date of the individual's class attendance.

(Authority: 38 U.S.C. 1414, 1423; Pub. L. 98-525)

(d) *Reopened application after abandonment (§ 21.7032).* When the veteran or servicemember reopens his or her claim after abandoning it, the commencing date of the award of educational assistance shall be the date the VA receives the individual's application or enrollment certificate, whichever is later.

(Authority: 38 U.S.C. 1434, 1671(a); Pub. L. 98-525)

(e) *Increase for a dependent.* A veteran who was eligible for educational assistance allowance under 38 U.S.C. ch. 34 on December 31, 1989, is entitled to additional educational assistance for dependents. No other veteran or servicemember is eligible for additional educational assistance. The effective date for the additional educational assistance is determined as follows.

(1) The veteran may acquire one or more dependents before he or she enters or reenters a program of education. When this occurs, the following rules apply.

(i) The effective date of the increase will be the date of entrance or reentrance if—

(A) The VA receives the claim for the increase within 1 year of the date of entrance or reentrance, and

(B) The VA receives any necessary evidence within 1 year of its request.

(ii) The effective date of the increase will be the date the VA receives notice of the dependent's existence if—

(A) The VA receives the claim for the increase more than 1 year after the date of entrance or reentrance, and

(B) The VA receives the necessary evidence within 1 year of its request.

(iii) The effective date will be the date the VA receives all necessary evidence, if that evidence is received more than 1 year from the date the VA requests it.

(2) If the veteran acquires a dependent after he or she enters or reenters a program of education, the increase will be effective on the latest of the following dates:

(i) Date of claim. This term means the following in order of their applicability:

(A) Date of the veteran's marriage, or birth of his or her child, or his or her adoption of a child, if the evidence of the event is received within 1 year of the event.

(B) The date the VA receives notice of the dependent's existence if evidence is received within 1 year of the VA request.

(C) The date the VA receives evidence if this date is more than 1 year after the VA request.

(ii) The date the dependency arises.

(iii) The date the law permits for benefits for dependents generally.

(Authority: 38 U.S.C. 3010 (f), (n); Pub. L. 98-525)

(See § 3.667 of this chapter as to effective dates with regard to children age 18 and older who are attending school)

(f) *Liberalizing laws and VA issues.* When a liberalizing law or VA issue affects the commencing date of a veteran's or servicemember's award of educational assistance, that commencing date shall be in accordance

with facts found, but not earlier than the effective date of the act or administrative issue.

(Authority: 38 U.S.C. 3012(b), 3013; Pub. L. 98-525)

(g) *Correction of military records (§ 21.7050(b)).* The eligibility of a veteran may arise because the nature of the veteran's discharge or release is changed by appropriate military authority. In these cases the commencing date of educational assistance will be in accordance with facts found, but not earlier than the date the nature of the discharge or release was changed.

(Authority: 38 U.S.C. 1431(b); Pub. L. 98-525)

(h) *Individuals in a penal institution.* If a veteran or servicemember is paid a reduced rate of educational assistance under § 21.7139 (c), (d), (e), (f) and (g) of this part, the rate will be increased or assistance will commence effective the earlier of the following dates:

(1) The date the tuition and fees are no longer being paid under another Federal program or a State or local program, or

(2) The date of the release from the prison or jail.

(Authority: 38 U.S.C. 1434, 1682(g); Pub. L. 98-525)

(i) *Commitment to service in the Selected Reserve.* If a veteran has established eligibility to educational assistance through two years' active duty service, and he or she establishes entitlement to an increased monthly rate through commitment to serve four years in the Selected Reserve, the effective date of the increase is the date on which he or she—

(1) Is committed to serve four years in the Selective Reserve, and

(2) Is attached to a unit of the Selected Reserve.

(Authority: 38 U.S.C. 1412; Pub. L. 98-525)

§ 21.7133 Suspension or discontinuance of payments.

The VA may suspend or discontinue payments of educational assistance, and in such cases the VA will apply §§ 21.4133, 21.4134 and 21.4207 of this part in the same manner as they are applied in the administration of chapters 34 and 36.

(Authority: 38 U.S.C. 1434, 1790; Pub. L. 98-525)

§ 21.7135 Discontinuance dates.

The effective date of reduction or discontinuance of educational assistance will be as stated in this section. Reference to reduction of educational assistance due to the loss of

a dependent only applies to veterans who were eligible to receive educational assistance allowance under 38 U.S.C. ch. 34 on December 31, 1989. No other veteran or servicemember will have his or her educational assistance reduced due to a loss of a dependent. If more than one type of reduction or discontinuance is involved, the earliest date will control.

(a) *Death of veteran or servicemember.* When a veteran or servicemember dies, the effective date of discontinuance of educational assistance shall be the last date of attendance.

(Authority: 38 U.S.C. 1414, 1423; Pub. L. 98-525)

(b) *Death of dependent.* When a veteran's dependent dies, and the veteran has been receiving additional educational assistance based on the dependent, the effective date of reduction of the veteran's educational assistance shall be the last day of the month in which the death occurs.

(Authority: 38 U.S.C. 3012(b), 3013; Pub. L. 98-525)

(c) *Divorce.* If the veteran becomes divorced, the effective date of reduction of his or her educational assistance is the last day of the month in which the divorce occurs.

(Authority: 38 U.S.C. 3012(b), 3013; Pub. L. 98-525)

(d) *Dependent child.* If the veteran's award of educational assistance must be reduced because his or her dependent child ceases to be dependent, the effective date of reduction will be as follows.

(1) If the veteran's child marries, the effective date of reduction will be the last day of the month in which the marriage occurs.

(2) If the veteran's child reaches age 18, the effective date of reduction will be the day preceding the dependent child's 18th birthday.

(3) If the veteran is receiving additional educational assistance based on a child's school attendance between the child's 18th and 23rd birthdays, the effective date of reduction of the veteran's educational assistance will be the last day of the month in which the dependent child stops attending school, or the day before the dependent child's 23rd birthday, whichever is earlier.

(4) If the veteran is receiving additional educational assistance because his or her child is helpless, the effective date of reduction will be the last day of the month following 60 days after the VA notifies the veteran that the dependent child's helplessness has ceased.

(Authority: 38 U.S.C. 3012(b) 3013; Pub. L. 98-525)

(e) *Course discontinued, course interrupted, course terminated, course not satisfactorily completed or withdrawn from.* (1) If the veteran or servicemember withdraws from all courses or receives all nonpunitive grades, and in either case there are no mitigating circumstances, the VA will terminate or reduce educational assistance effective the first date of the term in which the withdrawal occurs or the first date of the term for which grades are assigned.

(2) If the veteran or servicemember withdraws from all courses with mitigating circumstances or withdraws from all courses such that a punitive grade is or will be assigned for those courses, the VA will terminate educational assistance for—

(i) Residence training: last date of attendance; and

(ii) Independent study official date of change in status under the practices of the educational institution.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525)

(f) *Reduction in the rate of pursuit of the course.*

(1) If the veteran or servicemember reduces training by withdrawing from part of a course with mitigating circumstances, but continues training in part of the course, the VA will reduce the veteran's or servicemember's educational assistance at the end of the month or the end of the term in which the withdrawal occurs, whichever is earlier; except that the VA will reduce educational assistance effective the first date of the term in which the reduction occurs, if the reduction occurs on that date.

(2) If the veteran or servicemember reduces training by withdrawing from a part of a course without mitigating circumstances, the VA will reduce the veteran's or servicemember's educational assistance effective the first date of the enrollment in which the reduction occurs.

(3) A veteran or servicemember, who enrolls in several subjects and reduces his or her rate of pursuits by completing one or more of them while continuing training in the others, may receive an interval payment based on the subjects completed if the requirements of § 21.7140(b) of this part are met. If those requirements are not met, the VA will reduce the individual's educational assistance effective the date the subject or subjects were completed.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

(g) *End of course or period of enrollment.* If a veteran's or servicemember's course or period of enrollment ends, the effective date of reduction or discontinuance of his or her award of educational assistance will be the ending date of the course or period of enrollment as certified by the educational institution.

(Authority: 38 U.S.C. 1434(b), 1780; Pub. L. 98-525)

(h) *Nonpunitive grade.* (1) If the veteran or servicemember does not withdraw, but nevertheless receives a nonpunitive grade in a particular course, the VA will reduce his or her educational assistance effective the first date of enrollment for the term in which the grade applies, when no mitigating circumstances are found.

(2) If an individual does not withdraw, but nevertheless receives a nonpunitive grade in a particular course, the VA will reduce his or her educational assistance effective the last date of attendance when mitigating circumstances are found.

(3) If an individual receives a nonpunitive grade through nonattendance in a particular course, the VA will reduce the individual's educational assistance effective the last date of attendance when mitigating circumstances are found.

(4) If an individual receives a nonpunitive grade through nonattendance in a particular course, the VA will reduce the individual's educational assistance effective the first date of enrollment in which the grade applies, when no mitigating circumstances are found.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

(i) *Discontinued by VA.* If the VA discontinues payment to a veteran or servicemember following the procedures stated in § 21.4207 of this part, the date of discontinuance of payment of educational assistance will be—

(1) Date on which payments first were suspended by the Director of a VA field station as provided in § 21.4134 of this part, if the discontinuance was preceded by such a suspension.

(2) End of the month in which the decision to discontinue, made by the VA under § 21.7133 or § 21.4207 of this part, is effective, if the Director of a VA field station did not suspend payments before the discontinuance.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

(j) *Disapproval by State approving agency.* If a State approving agency disapproves a course in which a veteran

or servicemember is enrolled, the date of discontinuance of payment of educational assistance will be—

(1) Date on which payments first were suspended by the director of a VA field station as provided in § 21.4134 of this part, if disapproval was preceded by such a suspension.

(2) End of the month in which disapproval is effective or the VA receives notice of the disapproval, whichever is later, provided that the Director of a VA field station did not suspend payments before the disapproval

(Authority: 38 U.S.C. 1434, 1772(a), 1790; Pub. L. 98-525)

(k) *Disapproval by VA.* If the VA disapproves a course in which a veteran or servicemember is enrolled, the effective date of discontinuance of payment of educational assistance will be—

(1) The date on which the Director of a VA field station first suspended payments, as provided in § 21.4134 of this part, if such a suspension preceded the disapproval.

(2) The end of the month in which the disapproval occurred, provided that the Director of a VA field station did not suspend payments before the disapproval.

(Authority: 38 U.S.C. 1434, 1771(b), 1772(a), 1790; Pub. L. 98-525)

(l) *Unsatisfactory progress.* If a veteran's or servicemember's progress is unsatisfactory, his or her educational assistance shall be discontinued effective the earlier of the following:

(1) The date the educational institution discontinues the veteran's or servicemember's enrollment, or

(2) The date on which the veteran's or servicemember's progress becomes unsatisfactory according to the educational institution's regularly established standards of progress.

(Authority: 38 U.S.C. 1434-1674; Pub. L. 98-525)

(m) *Required certifications not received after certification of enrollment.* If the VA does not timely receive the veteran's or servicemember's certification of attendance or does not timely receive the educational institution's endorsement of the certification or the educational institution's certification of attendance or pursuit, the VA will assume that the veteran or servicemember has withdrawn. The VA will apply the provisions of paragraph (e) of this section. The VA considers the receipt of a certificate of attendance to be timely if it is received within 60 days of the last

day of the month for which attendance is to be certified.

(Authority: 38 U.S.C. 1434(b); Pub. L. 98-525)

(n) *False or misleading statements.* If educational assistance is paid as the result of false or misleading statements, see § 21.7158 of this part:

(Authority: 38 U.S.C. 1434, 1790; Pub. L. 98-525)

(o) *Conflicting interests (not waived).* If an educational institution and the VA have conflicting interests as provided in § 21.4005 and § 21.7305 of this part, and the VA does not grant the veteran a waiver, the date of discontinuance shall be 30 days after the date of the letter notifying the veteran.

(Authority: 38 U.S.C. 1434, 1783, Pub. L. 98-525)

(p) *Incarceration in prison or penal institution for conviction of a felony.*

(1) The provisions of this paragraph apply to a veteran or servicemember whose educational assistance must be discontinued or who becomes restricted to payment of educational assistance at a reduced rate under § 21.7139 (c), (d), (e), (f), or (g) of this part.

(2) The reduced rate or discontinuance will be effective the latest of the following dates:

(i) The first day on which all or part of the veteran's or servicemember's tuition and fees were paid by a Federal, State or local program.

(ii) The date the veteran or servicemember is incarcerated in prison or penal institution, or

(iii) The commencing date of the award as determined by § 21.7131 of this part.

(Authority: 38 U.S.C. 1434, 1682(g); Pub. L. 98-525)

(q) *Active duty.* If a veteran reenters on active duty, the effective date of reduction of his or her award of educational assistance shall be the day before the veteran's entrance on active duty. (This reduction does not apply to brief periods of active duty for training if the educational institution permits absence for active duty for training without considering the veteran's pursuit of a program of education to be interrupted. If the course does not lead to a standard college degree, absence for active duty for training must be reported as required by § 21.7154 of this part).

(Authority: 38 U.S.C. 1432, Pub. L. 98-525)

(r) *Record-purpose charge against entitlement under 38 U.S.C. ch. 34 equals entitlement that remained on December 31, 1989.* A veteran who is receiving basic educational assistance at the rates stated in § 21.7137(a) of this part, will

have his or her award reduced to the rates found in § 21.7136(a) of this part effective the date the total of the veteran's record-purpose charges against his or her entitlement under 38 U.S.C. ch. 34 equals the entitlement to that benefit which the veteran had on December 31, 1989.

(Authority: 38 U.S.C. 1415(c); Pub. L. 98-525)

(s) *Exhaustion of entitlement under 38 U.S.C. ch. 30.* (1) If an individual who is enrolled in an educational institution regularly operated on the quarter or semester system exhausts his or her entitlement under 38 U.S.C. ch. 30, the discontinuance date shall be the last day of the quarter or semester in which entitlement is exhausted.

(2) If an individual who is enrolled in an educational institution not regularly operated on the quarter or semester system exhausts his or her entitlement under 38 U.S.C. ch. 30 after more than half of the course is completed, the discontinuance date shall be the earlier of the following:

(i) The last day of the course, or
(ii) 12 weeks from the day the entitlement is exhausted.

(3) If an individual who is enrolled in an educational institution not regularly operated on the quarter or semester system exhausts his or her entitlement under 38 U.S.C. ch. 30 before completing the major portion of the course, the discontinuance date will be the date the entitlement is exhausted.

(Authority: 38 U.S.C. 1431(e); Pub. L. 98-525)

(t) *Eligibility expires.* If the veteran is pursuing a course on the date of expiration of eligibility as determined under § 21.7050 or § 21.7051 of this part the VA will discontinue educational assistance effective the day preceding the end of the eligibility period.

(Authority: 38 U.S.C. 1434(a); Pub. L. 98-525)

(u) *Veteran fails to participate satisfactorily in the Selected Reserve.* If a veteran is attempting to establish eligibility through service on active duty combined with service in the Selected Reserve, and he or she fails to participate satisfactorily in the Selected Reserve before completing the required service in the Selected Reserve, the effective date of reduction of the award of educational assistance will be the date the Secretary determines that he or she failed to participate satisfactorily.

(Authority: 38 U.S.C. 1412; Pub. L. 98-525)

(v) *Error-payee's or administrative.* (1) When an act of commission or omission by a payee or with his or her knowledge results in an erroneous award of educational assistance, the

effective date of the reduction or discontinuance will be the effective date of the award, or the day before the act, whichever is later, but not before the date on which the award would have ended had the act not occurred.

(2) When an administrative error or error in judgment results in an erroneous award, the award will be reduced or terminated effective the date of last payment.

(Authority: 38 U.S.C. 3012(b), 3013; Pub. L. 98-525)

(w) *Forfeiture for fraud.* If a veteran's or servicemember's educational assistance must be forfeited due to fraud, the effective date of discontinuance shall be the later of—

- (1) The effective date of the award, or
- (2) The day before the date of the fraudulent act.

(Authority: 38 U.S.C. 3503; Pub. L. 98-525)

(x) *Forfeiture for treasonable acts or subversive activities.* If a veteran's or servicemember's educational assistance must be forfeited due to treasonable acts or subversive activities, the effective date of discontinuance shall be the later of—

- (1) The effective date of the award, or
- (2) The date before the date the veteran or servicemember committed the treasonable act or subversive activities for which he or she was convicted.

(Authority: 38 U.S.C. 3504, 3505; Pub. L. 98-525)

(y) *Change in law or VA issue or interpretation.* If there is a change in applicable law or VA issue, or in the Veterans Administration's application of the law or VA issue, the VA will use the provisions of § 3.114(b) of this chapter to determine the date of discontinuance of the veteran's or servicemember's educational assistance.

(Authority: 38 U.S.C. 3012, 3013; Pub. L. 98-525)

(z) *Except as otherwise provided.* If a veteran's or servicemember's educational assistance must be discontinued for any reason other than those stated in the other paragraphs of this section, the VA will determine the

date of discontinuance of educational assistance on the basis of facts found.

(Authority: 38 U.S.C. 3012(a), 3013; Pub. L. 98-525)

§ 21.7136 Rates for payment of basic educational assistance.

(a) *Rates.* Except as otherwise provided in this section, the monthly rate of basic educational assistance payable to a veteran other than one to whom § 21.7137 of this part applies, or one to whom paragraph (b) of this section applies, is at least the rate stated in this table. The rate also applies to a veteran who formerly was eligible under 38 U.S.C. ch. 34, and who has received a record-purpose charge against his or her entitlement under that chapter equal to the entitlement he or she had remaining on December 31, 1989.

TRAINING	MONTHLY RATE
Full-time	\$300
¾ time	225
½ time	150
Less than ½ but more than ¼ time	150 See § 21.7136(d)
¼ time or less	75 See § 21.7136(d)

(Authority: 38 U.S.C. 1415(c); Pub. L. 98-525)

(b) *Rates for veterans whose initial obligated period of active duty is less than three years.* Except as otherwise provided in this section, the monthly rate of basic educational assistance payable to a veteran whose initial obligated and is not committed to serve in the Selected Reserve for a period of four years is at least the amount stated in this table.

TRAINING	MONTHLY RATE
Full-time	\$250.00
¾ time	187.50
½ time	125.00
Less than ½ but more than ¼ time	125.00 See § 21.7136(d)
¼ time or less	62.50 See § 21.7136(d)

(Authority: 38 U.S.C. 1415(c); Pub. L. 98-525)

(c) *Increase in basic educational assistance rates ("Kicker").* The Secretary concerned may increase the amount of basic educational assistance payable to an individual who has a skill

or specialty which the Secretary concerned designates as having a critical shortage of personnel or for which it is difficult to recruit. The amount of the increase is set by the Secretary concerned, but it may not exceed—

- (1) \$400 per month for full-time training,
- (2) \$300 per month for three-quarter time training,
- (3) \$200 per month for one-half time training or for training which is less than one-half, but more than one-quarter time, or
- (4) \$100 per month for one-quarter time training or less.

(Authority: 38 U.S.C. 1415(c); Pub. L. 98-525)

(d) *Less than one-half time training and rates for servicemembers.* The monthly rate for a veteran who is pursuing a course on a less than one-half time basis or the monthly rate for a servicemember who is pursuing a program of education is the lesser of—

- (1) The monthly rate stated in either paragraph (a) or (b) of this section (as determined by the veteran's or servicemember's initial obligated period of active duty) plus any additional amounts that may be due under paragraph (c) of this section, or
 - (2) The monthly rate of the cost of the course.
- (Authority: 38 U.S.C. 1415, 1432; Pub. L. 98-525)

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. ch. 34.

(a) *Minimum rates.* Effective January 1, 1990, the VA will pay basic educational assistance at an increased rate to veterans who were eligible for educational assistance allowance under 38 U.S.C. ch. 34. The veterans must establish eligibility for educational assistance under § 21.7044 of this part, and must still have remaining entitlement under 38 U.S.C. ch. 34. Except as otherwise provided in this section, the monthly rate of basic educational assistance will be the rate taken from the following table.

TRAINING	MONTHLY RATE			
	NO DEPENDENTS	ONE DEPENDENT	TWO DEPENDENTS	ADDITIONAL FOR EACH ADDITIONAL DEPENDENT
Full time	\$468.00	\$524.00	\$555.00	\$16.00
¾ time	366.50	393.00	416.00	12.00
½ time	244.00	262.00	277.00	8.50
Less than ½ but more than ¼ time	244.00	(¹)	(¹)	(¹)
¼ time or less	122.00	(¹)	(¹)	(¹)

¹ See § 21.713b.

(Authority: 38 U.S.C. 1415(c); Pub. L. 98-525)

(b) *Less than one-half-time training.* The monthly rate for a veteran who is pursuing a course on a less than one-half-time basis is the lesser of—

- (1) The monthly rate stated in paragraph (a) of this section, or
- (2) The monthly rate of the cost of the course.

(Authority: 38 U.S.C. 1432; Pub. L. 98-525)

(c) *Rates for servicemembers.* The monthly rate for a servicemember may not exceed the lesser of the following rates (except as provided in paragraph (d) of this section):

- (1) The monthly rate of the cost of the course.
- (2) The following monthly rates—
 - (i) \$488.00 for full-time training,
 - (ii) \$366.50 for three-quarter time training,
 - (iii) \$244.00 for one-half time training and training that is less than one-half, but more than one-quarter time training, and
 - (iv) \$122.00 for one-quarter time training.

(Authority: 38 U.S.C. 1415(d); Pub. L. 98-525)

(d) *Increase in basic educational assistance rates ("kicker").* The Secretary concerned may increase the amount of basic educational assistance payable to an individual who has a skill or specialty which the Secretary concerned designates as having a critical shortage of personnel, or for which it is difficult to recruit. The increase may not be applied to a servicemember whose monthly rate is determined by paragraph (c)(1) of this section, but it can serve to raise the ceiling on monthly rates stated in paragraphs (b) and (c)(2) of this section. The amount of the increase is set by the Secretary concerned, but it may not exceed—

- (1) \$400 per month for full-time training,
- (2) \$300 per month for three-quarter time training,
- (3) \$200 per month for one-half time training or for training which is less than one-half but more than one-quarter time, or
- (4) \$100 per month for one-quarter time training or less.

(Authority: 38 U.S.C. 1415, 1432; Pub. L. 98-525)

(e) *Concurrent benefits.* The VA may pay additional educational assistance to a veteran for a dependent concurrently with additional pension or compensation for the same dependent.

(Authority: 38 U.S.C. 1415(d); Pub. L. 98-525)

(f) *Two veteran cases.* The VA may pay additional educational assistance to a veteran for a spouse who is also a veteran. This will not bar the payment of additional educational assistance or subsistence allowance under § 21.260 of this part to the spouse for the veteran. If the veteran is paid additional educational assistance for a child, that will not bar payment of additional educational assistance or subsistence allowance under § 21.260 of this part to the spouse for the same child.

(Authority: 38 U.S.C. 1415(d); Pub. L. 98-525)

§ 21.7138 Rates of supplemental educational assistance.

In addition to basic educational assistance, a veteran or servicemember who is eligible for supplemental educational assistance and entitled to it shall be paid supplemental educational assistance at the rate described in this section unless a lesser rate is required by § 21.7139 of this part.

(a) *Rates for veterans.* The rate of supplemental educational assistance payable to a veteran is at least the rate stated in this table:

TRAINING	MONTHLY RATE
Full-time	\$300
¾ time	225
½ time	150
Less than ½ but more than ¼ time	150 See § 21.7138(c)
¼ time or less	75 See § 21.7138(c)

(Authority: 38 U.S.C. 1415(c); Pub. L. 98-525)

(b) *Increase in supplemental educational assistance rates ("kicker").* The Secretary concerned may increase the amount of supplemental educational assistance payable to an individual who has a skill or specialty which the Secretary concerned designates as having a critical shortage of personnel or for which it is difficult to recruit. The amount of the increase is set by the

Secretary concerned, but it may not exceed—

- (1) \$300 per month for full-time training,
- (2) \$225 per month for three-quarter time training,
- (3) \$150 per month for one-half time training and for training which is less than one-half time, but more than one-quarter time, or
- (4) \$75 per month for one-quarter time training or less.

(Authority: 38 U.S.C. 1422(b); Pub. L. 98-525)

(c) *Less than one-half time training and rates for servicemembers.* The monthly rate of supplemental educational assistance payable to a veteran who is training less than half-time or to a servicemember is determined as follows:

(1) The monthly rate of the veteran's or servicemember's basic educational assistance is determined as provided in §§ 21.7136(d), and 21.7137 (b), (c) and (d) of this part.

(2) If the monthly rate of basic educational assistance equals or is greater than the monthly rate of the cost of the course, no supplemental educational assistance is payable.

(3) If the monthly rate of basic educational assistance is less than monthly rate of the cost of the course, the monthly rate of supplemental educational assistance is the lesser of—

- (i) The monthly rate provided in paragraph (a) of this section, plus the monthly rate provided in paragraph (b) of this section, if appropriate, or
- (ii) The difference between the monthly rate of the cost of the course and the monthly rate of the veteran's or servicemember's basic educational assistance.

(Authority: 38 U.S.C. 1422, 1432; Pub. L. 98-525)

§ 21.7139 Conditions which result in reduced rates.

The monthly rates established in §§ 21.7136, 21.7137 and 21.7138 of this part shall be reduced as stated in this section whenever the circumstances described in this section arise.

(a) *Absences.* A veteran or servicemember enrolled in a course not

leading to a standard college degree will have his or her educational assistance reduced for any day of absence which exceeds the maximum allowable absences permitted in this paragraph.

(1) Absence will be charged for a full day when the veteran or servicemember did not attend any scheduled class on that day. A partial day of absence will be charged for any period of absence during or at the end of a day. Partial days of absence during a month will be converted to full days in accordance with the following formula.

(i) The average hours of daily attendance will be computed by dividing the hours of required attendance per week by the days of required attendance per week.

(ii) The absences of less than a full day which occurred during the month will be totaled.

(iii) The total hours of absence for the month as determined by paragraph (a)(1)(ii) of this section will be divided by the average hours of daily attendance as determined by paragraph (a)(1)(i) of this section to determine the veteran's or servicemember's full days of absence. A fractional day in the result will be dropped if it is one-half day or less and increased to the next whole day if more than one-half day.

(iv) An occasional period of nonattendance (not more than two per week) of one-half hour or less will not be counted if it is excused by the educational institution. Any period of nonattendance which is not excused and a period of nonattendance of more than one-half hour, whether excused or not, will be counted as 1 or more hours of absence. Except for an occasional period of nonattendance of one-half hour or less which is excused by the institution of higher learning any absence of less than an hour will be counted as a full hour of absence.

(2) Maximum allowable absences are as follows:

(i) For a 12-month course requiring attendance for 5 or more days per week, 30 days.

(ii) For a 12-month course requiring attendance for less than 5 days per week, the pro rata part of 30 days which the number of days per week of scheduled attendance bears to 5.

(iii) If the length of the course is not 12 months or a multiple of 12, allowable absences will be figured separately for each 12-month period and pro rata for any period which is less than 12 months.

(iv) In computing pro rata allowable absences, a fraction of one-half day or less will be disregarded. A fraction greater than one-half day will be counted as 1 day.

(v) Unused allowable absences may not be carried over from one 12-month period to another, or from one school year to another.

(3) Absences will be charged for—

(i) Days when the veteran or servicemember is scheduled to attend (including Saturday and Sunday if classes are normally scheduled for those days), but he or she does not attend.

(ii) Days when the educational institution is closed for local and school holidays.

(iii) If reported enrollment is on an ordinary school year basis, intervals between terms, quarters and semesters.

(4) Absences will not be charged for—

(i) Days when the educational institution is closed for a weekend period provided classes normally are not scheduled for Saturday or Sunday.

(ii) Days when the educational institution is closed for Federal or State legal holidays or customary, reasonable vacation periods connected with them which are identified as a holiday vacation in the educational institution's approved literature. Generally, the VA will interpret a reasonable period as not more than one calendar week at Christmas and one calendar week at New Year's and shorter periods of time in connection with other legal holidays.

(iii) Days (not to exceed five in any 12-month period) when the educational institution is not in session because of teacher conferences or teacher training sessions.

(iv) At the discretion of the Director of the VA field station of jurisdiction, days of nonattendance within a certified period of enrollment during which the school is closed under an Executive Order of the President or due to an emergency situation.

(5) The reduction in educational assistance payable will be determined by deducting from the month's educational assistance due the veteran or servicemember that portion of the educational assistance otherwise payable as determined by the following table:

Days of scheduled attendance per week	Rate of reduction for each day of excessive absence
5 or more.....	1/25th
4.....	1/20th
3.....	1/15th
2.....	1/10th
1.....	1/5th

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

(b) *Withdrawals and nonpunitive grades.* Withdrawal from a course or receipt of a nonpunitive grade affects payments to a veteran or servicemember. The VA will not pay

benefits to a veteran or servicemember for a course from which the veteran or servicemember withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless—

(1) There are mitigating circumstances, and

(2) The veteran or servicemember submits the circumstances in writing to the VA within 1 year from the date the VA notifies the veteran or servicemember that he or she must submit the mitigating circumstances.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525)

(c) *No educational assistance for some incarcerated servicemembers.* As with servicemembers who are not incarcerated, the VA will not pay educational assistance to an incarcerated servicemember enrolled in a course for which there are no tuition and fees. Furthermore, the VA will not pay educational assistance to a servicemember who—

(1) Is enrolled in a course where his or her tuition and fees are being paid for by a Federal program (other than one administered by the VA) or by a State or local program, and

(2) Is incarcerated in a Federal, State or local prison or jail for conviction of a felony, and has incurred no expenses for supplies, books or equipment.

(Authority: 38 U.S.C. 1434, 1682(g); Pub. L. 98-525)

(d) *No educational assistance for some incarcerated veterans.* The VA will pay no educational assistance to a veteran who—

(1) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(2) Is enrolled in a course—

(i) For which there are no tuition and fees, or

(ii) For which tuition and fees are being paid by a Federal program (other than one administered by the VA) or by a State or local program, and

(3) Is incurring no charge for the books, supplies and equipment necessary for the course.

(Authority: 38 U.S.C. 1434, 1682(g); Pub. L. 98-525)

(e) *Reduced educational assistance for some incarcerated servicemembers.*

(1) The VA will pay reduced educational assistance to a servicemember who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(ii) Is enrolled in a course where his or her tuition and fees are being paid for

entirely or partly by a Federal program (other than one administered by the VA) or by a State or local program, and

(iii) If all the tuition and fees are paid for by such a program, must buy books, supplies or equipment for the course.

(2) The monthly rate of educational assistance payable to a servicemember described in this paragraph shall equal the lowest of the following:

(i) The monthly rate of the portion of the tuition and fees that are not paid by a Federal program (other than one administered by the VA) or a State or local program plus the monthly rate of any charges to the servicemember for the cost of necessary supplies, books and equipment;

(ii) The monthly rate of the portion of the tuition and fees paid by the servicemember plus the monthly rate of the portion of tuition and fees paid by the Federal, State or local program; or

(iii) The monthly rate found in § 21.7136(d) or § 21.7137(c) of this part, as appropriate.

(Authority: 38 U.S.C. 1434, 1682(g); Pub. L. 98-525)

(f) *Reduced educational assistance for some incarcerated veterans.* (1) The VA will pay reduced educational assistance to a veteran who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(ii) Is enrolled in a course for which the veteran pays some (but not all) of the charges for tuition and fees, or for which a Federal program (other than one administered by the VA) or a State or local program pays all the charges for tuition and fees, but which requires the veteran to pay for books, supplies and equipment.

(2) The monthly rate of educational assistance payable to such a veteran who is pursuing the course on a one-half time or greater basis shall be the lesser of the following:

(i) The monthly rate of the portion of the tuition and fees that are not paid by a Federal program (other than one administered by the VA) or a State or local program plus the monthly rate of the charge to the veteran for the cost of necessary supplies, books and equipment, or

(ii) If the veteran has remaining entitlement under 38 U.S.C. ch. 34, the monthly rate stated in § 21.7137(a) of this part for a veteran with no dependents and the increase provided in § 21.7137(d) of this part, if appropriate, plus the monthly rate stated in § 21.7138(a) and (b) of this part for a veteran if the veteran is entitled to supplemental educational assistance, or

(iii) If the veteran has no entitlement under 38 U.S.C. ch. 34, the monthly rate stated in § 21.7136(a) or (b) of this part, as appropriate, and the increase provided in § 21.7136(c) of this part, if appropriate, plus the monthly rate stated in § 21.7138(a) and (b) of this part for a veteran if the veteran is entitled to supplemental educational assistance.

(3) The monthly rate of educational assistance payable to such a veteran who is pursuing the course on a less than one-half time basis or on a one-quarter time basis shall be the lowest of the following:

(i) The monthly rate of the tuition and fees charged for the course,

(ii) The monthly rate of the tuition and fees which the veteran must pay plus the monthly rate of the charge to the veteran for the cost of necessary supplies, books and equipment, or

(iii) The monthly rate determined by § 21.7136(d) or § 21.7137(b) of this part, as appropriate, plus the monthly rate stated in § 21.7138(c) of this part if the veteran is entitled to supplemental educational assistance.

(Authority: 38 U.S.C. 1434, 1682(g); Pub. L. 98-525)

(g) *Payment for independent study.* The VA shall pay to a veteran, who is pursuing only independent study, educational assistance based on the training time determined in § 21.4272(h) of this part at the rate prescribed in § 21.7136(d) or § 21.7137(b) of this part, as appropriate. If the veteran is entitled to supplemental educational assistance, he or she will be paid at the rate prescribed in § 21.7138(c) of this part. If a veteran completes his or her course before the designated completion time, his or her award will be recomputed using the actual length of the course.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

(h) *Payment for independent study-resident training.* A veteran who is pursuing independent study-resident training shall be paid based on the training time determined in § 21.7170(g) of this part at the same rate he or she would have been paid had he or she been pursuing resident training.

(Authority: 38 U.S.C. 1415; Pub. L. 98-525)

§ 21.7140 Certifications and release of payments.

(a) *Payments are dependent upon certifications.* An individual must be pursuing a program of education in order to receive payments. To ensure that this is the case the provisions of this paragraph must be met.

(1) The VA will pay educational assistance to a veteran or servicemember only after—

(i) The educational institution has certified his or her enrollment;

(ii) The VA has received from the individual a certification as to his or her actual attendance;

(iii) The VA has received from the educational institution a certification, or an endorsement of the veteran's or servicemember's certificate, that he or she was enrolled in and pursuing a program of education during the period for which payment is to be made; and

(iv) In the case of a veteran or servicemember pursuing a course not leading to a standard college degree, a report from the veteran or servicemember of each day of absence from scheduled attendance. The report will be endorsed by the educational institution. For a discussion of each of these certifications see § 21.7152, and § 21.7154 of this part.

(2) Since the VA will permit an individual to certify his or her attendance only once each month, this procedure usually will result in monthly payment of educational assistance.

(Authority: 38 U.S.C. 1434(b); Pub. L. 98-525)

(b) *Payment for intervals between terms.* (1) In administering 38 U.S.C. ch. 30, the VA will apply the provisions of § 21.4138(f) of this part in the same manner as they are applied in the administration of chapter 34 when determining whether a veteran is entitled to payment for an interval between terms. References to § 21.4205 in § 21.4138(f) of this part shall be deemed to refer to § 21.7136 of this part.

(2) The Director of the VA field station of jurisdiction may authorize payment to be made for breaks, including intervals between terms within a certified period of enrollment, during which the educational institution is closed under an established policy based upon an order of the President or due to an emergency situation.

(i) If the Director has authorized payment due to an emergency school closing resulting from a strike by the faculty or staff of the school, and the closing lasts more than 30 days, the Director, Education Service, will decide if payments may be continued. The decision will be based on a full assessment of the strike situation. Further payments will not be authorized if in his or her judgment the school closing will not be temporary.

(ii) An educational institution, which disagrees with a decision made under this paragraph by a Director of a VA field station, has one year from the date of the letter notifying the educational institution of the decision to request that the decision be reviewed. The request

must be submitted in writing to the Director of the VA field station where the decision was made. The Director, Education Service, shall review the evidence of record and any other pertinent evidence the educational institution may wish to submit. The Director, Education Service, has the authority either to affirm or reverse a decision of the Director of a VA field station.

(3) A veteran, who is pursuing a course leading to a standard college degree, may transfer between consecutive school terms from one approved educational institution to another for the purpose of enrolling in, and pursuing, a similar course at the second educational institution. If the interval between terms does not exceed 30 days, the VA shall, for the purpose of paying educational assistance, consider the veteran to be enrolled in the first educational institution during the interval.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

(c) *Payee.* (1) The VA will make payment to the veteran or servicemember or to a duly appointed fiduciary. The VA will make direct payment to the veteran or servicemember even if he or she is a minor.

(2) The assignment of educational assistance is prohibited. In administering this provision, VA will apply the provisions of § 21.4146 of this part to 38 U.S.C. ch. 30 in the same manner as they are applied in the administration of chapters 34 and 36.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

(d) *Limitations on payments.* (1) The VA will not pay educational assistance in advance.

(2) The VA will not apportion educational assistance.

(3) The VA will make lump sum payments of educational assistance only in those instances where the veteran's or servicemember's enrollment or attendance is first certified after he or she completes his or her enrollment period.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 98-525)

§ 21.7142 Nonduplication of educational assistance.

(a) *Payments of educational assistance shall not be duplicated.* An individual, entitled to educational assistance under 38 U.S.C. ch. 34, who establishes eligibility under 38 U.S.C. ch. 30, shall not receive payment under 38 U.S.C. ch. 30 before January 1, 1990. An individual who is eligible for

educational assistance under 38 U.S.C. ch. 30 and any of the provisions of law listed in this paragraph must elect which benefit he or she will receive for each program of education he or she wishes to pursue. The provisions of law are:

- (1) 38 U.S.C. ch. 31,
- (2) 38 U.S.C. ch. 35,
- (3) 10 U.S.C. ch. 106, and
- (4) 10 U.S.C. ch. 107.

(Authority: 38 U.S.C. 1433; Pub. L. 98-525)

(b) *Election of benefits.* The veteran must elect in writing which benefit he or she wishes to receive. The veteran may make a new election at any time, but may not elect more than once in a calendar month.

(Authority: 38 U.S.C. 1433; Pub. L. 98-525)

§ 21.7144 Overpayments.

(a) *Prevention of overpayments.* In administering benefits payable under 38 U.S.C. ch. 30, the VA will apply the provisions of § 21.4008 of this part in the same manner as they are applied in the administration of 38 U.S.C. ch. 34. See § 21.7133 of this part.

(Authority: 38 U.S.C. 1434, 1790(b); Pub. L. 98-525)

(b) *Liability for overpayments.* (1) The amount of the overpayment of educational assistance paid to a veteran or servicemember constitutes a liability of that veteran or servicemember.

(2) The amount of the overpayment of educational assistance paid to a veteran or servicemember constitutes a liability of the educational institution if the VA determines that the overpayment was made as the result of willful or negligent—

- (i) Failure of the educational institution to report, as required by § 21.7140 and § 21.7154 of this part, excessive absences from a course by a veteran or servicemember, or
- (ii) False certification by the educational institution, or
- (iii) Endorsement of a veteran's or servicemember's false certification of his or her actual attendance.

(Authority: 38 U.S.C. 1434, 1785; Pub. L. 98-525)

(c) *Recovery of overpayments.* In determining whether an overpayment should be recovered from an educational institution, the VA will apply the provisions of § 21.4009 of this part except paragraph (a)(1) to overpayments of educational assistance under 38 U.S.C. ch. 30 in the same manner as they are applied to overpayments of educational assistance allowance under 38 U.S.C. ch. 34.

(Authority: 38 U.S.C. 1434, 1785; Pub. L. 98-525)

Cross-Reference: Entitlement charges. See § 21.7076(c) of this part.

Pursuit of Courses

§ 21.7150 Pursuit.

The veteran's or servicemember's educational assistance depends upon his or her pursuit of a program of education. Verification of this pursuit is accomplished by various certifications.

(Authority: 38 U.S.C. 1434(b); Pub. L. 98-525)

§ 21.7152 Certification of enrollment.

As stated in § 21.7140 of this part, the educational institution must certify the veteran's or servicemember's enrollment before he or she may receive educational assistance.

(a) *Content of certification of entrance or reentrance.* The certification of entrance or reentrance must clearly specify—

- (1) The course;
- (2) The starting and ending dates of the enrollment period;
- (3) The credit hours or clock hours being pursued by the veteran or servicemember;
- (4) The amount of tuition and fees charged to—

(i) The veteran who is training less than one-half time,

(ii) The servicemember,

(iii) The veteran who is pursuing independent study, or

(iv) The veteran who is incarcerated in Federal, State or local prison or jail for conviction of a felony;

(5) The amount charged for books to a veteran or servicemember who is incarcerated in a Federal, State or local prison or jail for conviction of a felony; and

(6) Such other information as the Administrator may find is necessary to determine the veteran's or servicemember's monthly rate of educational assistance.

(Authority: 38 U.S.C. 1432, 1434, 1682(g), 1780; Pub. L. 98-525)

(b) *Length of the enrollment period covered by the enrollment certification.*

(1) Educational institutions organized on a term, quarter or semester basis generally shall report enrollment for the term, quarter, semester, ordinary school year or ordinary school year plus summer term. If the certification covers two or more terms, the educational institution will report the dates for the break between terms if a term ends and the following term does not begin in the same or the next calendar month or if the veteran elects not be paid for the intervals between terms. The educational institution must submit a separate enrollment certification for

each term, quarter or semester when the certification is for—

- (i) A servicemember, or
- (ii) A veteran who—

(A) Is training on a less than one-half time basis, or

(B) Is incarcerated in a Federal, State or local prison or jail for conviction of a felony.

(2) Educational institutions organized on a year-round basis will report enrollment for the length of the course. The certification will include a report of the dates during which the educational institution closes for any intervals designated in its approval data as breaks between school years.

(3) When a veteran enrolls in independent study leading to a standard college degree, the educational institution's certification will include—

- (i) Enrollment date,
- (ii) Established charges for tuition and fees, and
- (iii) The ending date for the period being certified. If the educational institution has no prescribed maximum time for completion, the certification must include an ending date based on the educational institution's estimate for completion.

(Authority: 38 U.S.C. 1434, 1674; Pub. L. 98-525)

(Approved by the Office of Management and Budget under control number 2900-0073)

§ 21.7153 Progress and conduct.

(a) *Satisfactory pursuit of program.* In order to receive educational assistance for pursuit of a program of education, an individual must maintain satisfactory progress. The VA will discontinue educational assistance if the individual does not maintain satisfactory progress. Progress is unsatisfactory if the individual does not satisfactorily progress according to the regularly prescribed standards of the educational institution he or she is attending.

(Authority: 38 U.S.C. 1434, 1674; Pub. L. 98-525)

(b) *Satisfactory conduct.* In order to receive educational assistance for pursuit of a program of education, an individual must maintain satisfactory conduct according to the regularly prescribed standards and practices of the educational institution in which he or she is enrolled. If the individual will be no longer retained as a student or will not be readmitted as a student by the educational institution in which he or she is enrolled, the VA will discontinue educational assistance, unless further development establishes that the educational institution's action is retaliatory.

(Authority: 38 U.S.C. 1434, 1674; Pub. L. 98-525)

(c) *Reentrance after discontinuance.*

(1) An individual may be reentered following discontinuance because of unsatisfactory conduct or progress only when the following conditions exist:

(i) The cause of unsatisfactory conduct or progress has been removed, and

(ii) The VA determines that the program which the individual now proposes to pursue is suitable to his or her aptitudes, interests and abilities.

(2) Reentrance may be for the same program, for a revised program, or for an entirely different program depending on the cause of the discontinuance and the removal of that cause.

(Authority: 38 U.S.C. 1434, 1674; Pub. L. 98-525)

§ 21.7154 Pursuit and absences.

As stated in § 21.7140(a) of this part an individual must certify to the VA each month his or her actual attendance during the period for which the individual is to be paid. The educational institution either must endorse the individual's certificate or must separately certify that the individual was enrolled in, and in pursuit of, a program of education during the period being certified.

(a) *Requirements for all veterans and servicemembers.* (1) The monthly certification for all veterans and servicemembers will include a report on the following items when applicable:

- (i) Actual attendance,
- (ii) Continued enrollment in and pursuit of the course,
- (iii) The individual's unsatisfactory conduct or progress,
- (iv) Date of interruption or termination of training,
- (v) Changes in the number of credit hours or in the number of clock hours of attendance,
- (vi) Nonpunitive grades, and
- (vii) Any other changes or modifications in the course as certified at enrollment.

(2) The certification of attendance and pursuit must—

- (i) Contain the information required for release of payment,
- (ii) Be signed by the veteran or servicemember and an official of the educational institution (except that the veteran or servicemember need not sign if he or she has interrupted the enrollment and is not available for signature),
- (iii) Be signed on or after the final date of the reporting period, and
- (iv) Clearly show the date on which each person signed.

(Authority: 38 U.S.C. 1434, 1784; Pub. L. 98-525)

(b) *Additional requirements when the course does not lead to a standard college degree.* When the veteran or servicemember is enrolled in a course or courses which do not lead to a standard college degree, he or she must include a report of each day of absence from scheduled attendance. Only those days defined as absences in § 21.7139(a) of this part will be reported. The educational institution will—

(1) Convert partial days of absence to full days of absence as provided in § 21.7139(a) of this part.

(2) Verify the full days of absence reported, and

(3) Endorse the report.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98-525)

(Approved by the Office of Management and Budget under control numbers 2900-0465 and 2900-0354)

§ 21.7156 Other required reports from educational institutions.

Each veteran or servicemember must report without delay any change in his or her hours of credit or attendance, any change in his or her pursuit and any interruption or termination of his or her attendance. Each educational institution must report without delay the entrance, reentrance, change in hours of credit or attendance, pursuit, interruption and termination of attendance of each veteran or servicemember enrolled in an approved course. The fact that a veteran or servicemember may fail to present his or her monthly certification of attendance and pursuit for endorsement by the educational institution does not relieve the educational institution of its responsibility.

(a) *Interruptions, terminations and changes in hours of credit or attendance.* When a veteran or servicemember interrupts or terminates his or her training for any reason, including unsatisfactory conduct or progress, or when he or she changes the number of hours of credit or attendance, the educational institution must report this fact to the VA.

(1) If the change in status or change in number of hours of credit or attendance occurs on a day other than one indicated by paragraph (a) (2) or (3) of this section, the educational institution will initiate a report of the change in time for the VA to receive it within 30 days of the date on which the change occurs. The educational institution may include the information on the monthly certification of attendance and pursuit.

(2) If the educational institution has certified the veteran's or

servicemember's enrollment for more than one term, quarter or semester and the veteran or servicemember interrupts his or her training at the end of a term, quarter or semester within the certified enrollment period, the educational institution shall report the change in status to the VA in time for the VA to receive the report within 30 days of the last officially scheduled registration date for the next term, quarter or semester. The educational institution may use the monthly certification of attendance and pursuit to make this report provided the VA will receive the report within the time period stated in this paragraph.

(3) If the change in status or change in the number of hours of credit or attendance occurs during the 30 days of a drop-add period, the educational institution must report the change in status or change in the number of hours of credit or attendance to the VA in time for the VA to receive the report within 30 days from the last date of the drop-add period or 60 days from the first day of the enrollment period, whichever occurs first. The educational institution may use the monthly certification of pursuit to make this report provided the VA will receive the report within the time period stated in this paragraph.

(Authority: 38 U.S.C. 1434, 1784; Pub. L. 96-525)

(b) *Nonpunitive grades.* An educational institution may assign a nonpunitive grade for a course or subject in which the veteran or servicemember is enrolled even though the veteran or eligible person does not withdraw from the course or subject. When this occurs, the educational institution must report the assignment of the nonpunitive grade in time for the VA to receive it before the earlier of the following dates is reached:

(1) Thirty days from the date on which the educational institution assigns the grade, or

(2) Sixty days from the last day of the enrollment period for which the nonpunitive grade is assigned. The educational institution may use monthly certification of attendance and pursuit to report nonpunitive grades provided the VA will receive the report within the time period stated in this paragraph.

(Authority: 38 U.S.C. 1434, 1784; Pub. L. 96-525)

(Approved by the Office of Management and Budget under control number 2900-0156)

§ 21.7158 False, late or missing reports.

(a) *Veteran.* Payments may not be based on false or misleading statements, claims or reports. The VA will apply the provisions of §§ 21.4006 and 21.4007 of

this part to a veteran or servicemember or any other person who submits false or misleading claims, statements or reports in connection with benefits payable under 38 U.S.C. ch. 30 in the same manner as they are applied to people who make similar false or misleading claims for benefits payable under 38 U.S.C. ch. 34 or 36.

(Authority: 38 U.S.C. 1434, 1790, 1790, 3503; Pub. L. 96-525)

(b) *Educational institution.* (1) The VA may hold an educational institution liable for overpayments which result from the educational institution's willful or negligent failure to report excessive absences from a course or discontinuance or interruption of a course by a veteran or servicemember or from willful or negligent false certification by the educational institution. See § 21.7144(b) of this part.

(2) When an educational institution willfully and knowingly submits a false report or certification, the VA may disapprove a course for further enrollments and may discontinue educational assistance to veterans and servicemembers already enrolled. The VA will apply the provisions of §§ 21.4202(b), 21.4207 and 21.4208 of this part in the same manner as they are applied in making similar determinations regarding enrollments under 38 U.S.C. ch. 34.

(Authority: 38 U.S.C. 1434, 1790; Pub. L. 96-525)

§ 21.7159 Reporting fee.

In determining the amount of the reporting fee payable to educational institutions for furnishing required reports, the VA will apply the provisions of § 21.4206 (except paragraph (c)) of this part in the same manner as they are applied in the administration of 38 U.S.C. chs. 34 and 36.

(Authority: 38 U.S.C. 1434, 1784; Pub. L. 96-525)

Course Assessment

§ 21.7170 Course measurement.

In administering benefits payable under 38 U.S.C. ch. 30, the VA shall apply the following sections in the same manner as they are applied for the administration of chapters 34 and 36.

(a) Section 21.4270 (except those portions of paragraph (a) and footnotes dealing with high school, cooperative, farm cooperative, apprentice and other on-job training)—Measurement of courses.

(b) Section 21.4271 (except paragraph (c))—Trade or technical-high schools,

(c) Section 21.4272 (except paragraph (e)(4))—Collegiate course measurement,

(d) Section 21.4273—Collegiate graduate,

(e) Section 21.4274—Law course,

(f) Section 21.4275—Practical training courses-measurement, and

(g) Section 21.4280—Independent study leading to a standard college degree.

(Authority: 38 U.S.C. 1434, 1788; Pub. L. 96-525)

State Approving Agencies

§ 21.7200 State approving agencies.

State approving agencies have the same general responsibilities for approving courses for training under 38 U.S.C. ch. 30 as they do for approving courses for training under 38 U.S.C. ch. 34. Accordingly, in administering 38 U.S.C. ch. 30, the VA will apply the provisions of the following sections in the same manner, as they are applied for the administration of 38 U.S.C. chs. 34 and 36.

(a) Section 21.4150 (except paragraph (e))—Designation,

(b) Section 21.4151—Cooperation,

(c) Section 21.4152—Control by agencies of the United States,

(d) Section 21.4153—Reimbursement of expenses, and

(e) Section 21.4154—Report of activities.

(Authority: 38 U.S.C. 1434, 1770, 1771, 1772, 1773, 1774; Pub. L. 96-525)

Approval of courses

§ 21.7220 Course approval.

(a) *Courses must be approved.* (1) A course of education, including the class schedules of a resident course not leading to a standard college degree, offered by an educational institution must be approved by—

(i) The State approving agency for the State in which the educational institution is located, or

(ii) The State approving agency which has appropriate approval authority, or

(iii) The VA, where appropriate. In determining when it is appropriate for the VA to approve a course, the VA will apply the provisions of § 21.4250(b)(3) and (c) of this part.

(2) A course approved under 38 U.S.C. ch. 36 is approved for the purposes of 38 U.S.C. ch. 30 unless it is one of the types of courses listed in § 21.7222 of this part.

(Authority: 38 U.S.C. 1434, 1772; Pub. L. 96-525)

(b) *Courses approval criteria.* In administering benefits payable under 38 U.S.C. ch. 30, the VA and, where appropriate, the State approving agencies, shall apply the following sections in the same manner as they are

applied for the administration of 38 U.S.C. chs. 34 and 36:

(1) Section 21.4250 (except paragraphs (a), (c)(1) and (c)(2)(v))—Approval of courses.

(2) Section 21.4251—Period of operation of course.

(3) Section 21.4253 (except that portion of paragraph (f)(3) which permits approval of a course leading to a high school diploma)—Accredited courses.

(4) Section 21.4254—Nonaccredited courses.

(5) Section 21.4255—Refund policy—nonaccredited courses.

(6) Section 21.4258 (except paragraph (c))—Notice of approval.

(7) Section 21.4259—Suspension or disapproval.

(8) Section 21.4260—Courses in foreign countries.

(9) Section 21.4265 (except paragraphs (c)(4), (f)(1) and (g))—Practical training approved as institutional training.

(10) Section 21.4266—Courses offered at subsidiary branches or extensions.

(Authority: 38 U.S.C. 1434, 1676, 1772, 1775, 1776, 1778, 1779, 1789, 1789(c); Pub. L. 98-525)

§ 21.7222 Courses and enrollments which may not be approved.

The Administrator may not approve an enrollment by a veteran or servicemember in, and a State approving agency may not approve for training under 38 U.S.C. ch. 30—

(a) A bartending or personality development course;

(b) A flight training course unless the course is offered by an institution of higher learning for credit toward a standard college degree;

(c) A course offered by radio;

(d) A correspondence course;

(e) A course, or combination of courses, consisting of instruction offered by an education institution alternating with instruction in a business or industrial establishment, commonly called a cooperative course;

(f) A course, or combination of courses, consisting of institutional agricultural courses and concurrent agricultural employment, commonly called a farm cooperative course;

(g) An independent study course which does not lead to a standard college degree;

(h) An apprenticeship or other on-job training; or

(i) A refresher, remedial or deficiency course.

(Authority: 38 U.S.C. 1434, 1673; Pub. L. 98-525)

Administrative

§ 21.7301 Delegations of authority.

(a) *General delegation of authority.* Except as otherwise provided, authority

is delegated to the Chief Benefits Director of the VA, and to supervisory or adjudication personnel within the jurisdiction of the Education Service of the VA designated by him or her, to make findings and decisions under 38 U.S.C. ch. 30 and the applicable regulations, precedents and instructions concerning the program authorized by that chapter.

(Authority: 38 U.S.C. 212(a))

(b) *Other delegations of authority.* In administering benefits payable under 38 U.S.C. ch. 30, the VA shall apply § 21.4001(b), (c)(1) and (2) and (f) of this part in the same manner as those paragraphs are applied in the administration of 38 U.S.C. ch. 34.

(Authority: 38 U.S.C. 212(a), 1434, 1796; Pub. L. 98-525)

§ 21.7302 Finality of decisions.

(a) *Agency decisions generally are binding.* The decision of a VA field station of original jurisdiction on which an action is based—

(1) Will be final,

(2) Will be binding upon all field offices of the VA as to conclusions based on evidence on file at that time, and

(3) Will not be subject to revision on the same factual grounds except by duly constituted appellate authorities or except as provided in § 21.7303 of this part. (See §§ 19.192 and 19.193 of this chapter.)

(Authority: 38 U.S.C. 211)

(b) *Decisions of an activity within the VA.* Current determinations of line of duty and other pertinent elements of eligibility for a program of education made by either an Adjudicative activity or an Insurance activity by application of the same criteria and based on the same facts are binding one upon the other in the absence of clear and unmistakable error.

(Authority: 38 U.S.C. 211)

(c) *Character of discharge determinations.* (1) A determination of the character of a veteran's discharge made by a competent military or naval authority or by the Coast Guard is binding upon the VA.

(2) Any determination of the character of a veteran's discharge made by the VA in connection with the veteran's eligibility for a benefit other than educational assistance under 38 U.S.C. ch. 30, shall not affect his or her eligibility for educational assistance.

(Authority: 38 U.S.C. 1411(a), 1412(a); Pub. L. 98-525)

§ 21.7303 Revision of decisions.

The revision of a decision on which an action was predicated is subject to the following sections:

(a) Clear and unmistakable error, § 3.105(a) of this chapter; and

(b) Difference of opinion, § 3.105(b) of this chapter.

(Authority: 38 U.S.C. 211; Pub. L. 98-525)

§ 21.7305 Conflicting interests.

In administering benefits payable under 38 U.S.C. ch. 30, the VA will apply the provisions of § 21.4005 of this part in the same manner as they are applied in the administration of 38 U.S.C. ch. 34.

(Authority: 38 U.S.C. 1434, 1783; Pub. L. 98-525)

§ 21.7307 Examination of records.

In administering benefits payable under 38 U.S.C. ch. 30, the VA will apply the provisions of § 21.4209 of this part in the same manner as they are applied in the administration of 38 U.S.C. chs. 34 and 36.

(Authority: 38 U.S.C. 1434, 1790; Pub. L. 98-525)

§ 21.7310 Civil rights.

(a) *Delegations of authority concerning Federal equal opportunity laws.*

(1) The Chief Benefits Director is delegated the responsibility to obtain evidence of voluntary compliance with Federal equal opportunity laws from educational institutions and from recognized national organizations whose representatives are afforded space and office facilities under his or her jurisdiction. See § 18.1 et seq. of this chapter. These equal opportunity laws are:

- (i) Title VI, Civil Rights Act of 1964,
- (ii) Title IX, Education Amendments of 1972, as amended,
- (iii) Section 504, Rehabilitation Act of 1973, and
- (iv) The Age Discrimination Act of 1975.

(2) In obtaining evidence from educational institutions of compliance with Federal equal opportunity laws, the Chief Benefits Director may use the State approving agencies as provided in § 21.4258(d) of this part.

(Authority: 42 U.S.C. 2000)

(b) *Nondiscrimination in educational programs.* In administering benefits payable under 38 U.S.C. ch. 30, the VA shall apply the following sections in the same manner as they are applied to the administration of 38 U.S.C. chs. 34 and 36:

(1) Section 21.4300—Civil rights assurances—Title VI, Pub. L. 88-352.

(2) Section 21.4301—Institutions of higher learning; elementary and secondary schools; medical institutions.

(3) Section 21.4302 (with the exception of the reference to training establishments)—Proprietary vocational schools and training establishments.

(4) Section 21.4304 (with the exception of references to elementary and secondary schools)—Assurance of compliance received—i.h.l.'s; elementary and secondary schools; medical facilities.

(5) Section 21.4305—Noncompliance—complaints—initial action.

(6) Section 21.4306—Payments after final agency action, and

(7) Section 21.4307—Posttermination compliance.

(Authority: 42 U.S.C. 2000)

[FR Doc. 88-979 Filed 1-21-88; 8:45 am]

BILLING CODE 8320-01-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Veterans Education; Transfer of Entitlement Under the Educational Assistance Test Program

AGENCY: Veterans Administration and Department of Defense.

ACTION: Final regulations.

SUMMARY: The Department of Defense Authorization Act, 1986, contains a provision which affects some people who are eligible to receive educational assistance and subsistence allowance under the Educational Assistance Test Program (EATP). This provision makes it easier for some members or veterans of the Navy or Marine Corps to transfer their educational entitlement to their dependents. This final regulation implements this provision of law.

EFFECTIVE DATE: November 8, 1985.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer (225), Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2092.

SUPPLEMENTARY INFORMATION: On pages 26026 and 26027 of the Federal Register of July 10, 1987, there was published a notice of proposed rulemaking to amend 38 CFR Part 21 to implement the provisions of the Department of Defense Authorization Act, 1986, which liberalized a portion of the Educational Assistance Test Program. Interested persons were given

31 days to submit comments, suggestions, or objections. The Veterans Administration (VA) and the Department of Defense received one letter. The letter writer questioned why the regulation was limited to members and veterans of the Navy and Marine Corps. This limitation is the result of specific wording of the law which allows only the Secretary of the Navy to make the transfer of entitlement under the conditions stated in the proposed regulation. Therefore, the VA and the Department of Defense are making this final.

The VA and the Department of Defense find that good cause exists for making this regulation, like the section of the law it implements, retroactively effective on November 8, 1985. To achieve the maximum benefit of this legislation for the affected individuals, it is necessary to implement this provision of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of this provision of law; and might result in denial of a benefit to a dependent of a member or veteran of the Navy or Marine Corps who is entitled by law to it.

The VA and the Department of Defense have determined that this final regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects 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 Administrator of Veterans Affairs and the Secretary of Defense have certified that this final regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 606(b), the final regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the final regulation affects only individuals. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

There is no Catalog of Federal Domestic Assistance number for the program affected by this final regulation.

List of Subjects in 38 CFR Part 21

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

Approved: November 10, 1987.

Thomas K. Turnage,
Administrator.

Approved: December 15, 1987.

A. Lukeman,
Lieutenant General, USMC, Deputy Assistant Secretary (Military Manpower & Personnel Policy).

In 38 CFR Part 21, Vocational Rehabilitation and Education, § 21.5743(a) is revised to read as follows:

§ 21.5743 Transfer of entitlement.

(a) *Entitlement may be transferred.* (1) A veteran or servicemember may transfer all or part of his or her entitlement to educational assistance and subsistence allowance to a spouse or dependent child. He or she may not transfer entitlement to more than one person at a time.

(2) The Secretary of the Navy may authorize a member or veteran of the Navy or Marine Corps to make a transfer described in paragraph (a)(1) of this section provided:

(i) The servicemember or veteran has entitlement to educational assistance as provided in § 21.5742;

(ii) The enlistment that established the servicemember's or veteran's entitlement was his or her second reenlistment as a member of the Armed Forces;

(iii) The servicemember or veteran has completed at least four years of active service of that second reenlistment; and

(iv) The servicemember's or veteran's second reenlistment was for a period of at least six years.

(3) No transfer, other than one described in paragraph (a)(2) of this section, may be made until the veteran or servicemember—

(i) Has completed the enlistment upon which his or her entitlement is based or has been discharged for reasons described in § 21.5740(b)(2), and

(ii) Has thereafter reenlisted.

(4) The servicemember or veteran may revoke at any time a transfer described in either paragraph (a) (2) or (3) of this section.

(5) If a veteran attempts to transfer entitlement after 10 years have elapsed from the date he or she has retired, has been discharged or has otherwise been

separated from active duty, the transfer shall be null and void.

(Authority: 10 U.S.C. 2147(a), 2148; Pub. L. 99-145)

[FR Doc. 88-1165 Filed 1-21-88; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 233

Mail Withheld From Delivery

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule supplements the Postal Inspection Service procedures dealing with mail withheld from delivery because it bears a fictitious name or address. The rule adds a procedure to govern mail withheld because it is addressed to a place not the residence or regular business address of the person for whom it is intended to enable such person to escape identification. A procedure is also added to require the Chief Postal Inspector to notify persons whose mail has been withheld from delivery and to advise them what steps must be taken to secure return of their mail. This rule brings these procedures into harmony with recently changed procedures of the Postal Service's Judicial Officer on this subject.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT: George C. Davis, (202) 268-3076.

SUPPLEMENTARY INFORMATION:

List of Subjects in 39 CFR Part 233

Crime, Postal Service.

PART 233—[AMENDED]

1. The authority citation for Part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401-3422; 18 U.S.C. 2254.

§ 233.4 [Amended]

2. Paragraph (b) of § 233.4 is revised to read as follows:

(b) *Fictitious name or address and not residents of the place of address orders*—(1) *Issuance.* Pursuant to 39 U.S.C. 3003, 3004, when there is satisfactory evidence that mail is addressed to a fictitious name, title, or address used for any unlawful business, and no one has established a right to have the mail delivered to him, or that mail is addressed to places not the residence or regular business address of

the person for whom they are intended to enable the person to escape identification, the Judicial Officer may, pursuant to Part 964, order that the mail be returned to the sender.

(2) *Notice.* (i) The Chief Postal Inspector or his delegate must give notice to the addressee of mail withheld from delivery pursuant to 39 U.S.C. 3003, 3004 that such action has been taken and advise him that he may:

(A) Obtain such mail upon presenting proof of his identity and right to receive such mail, or

(B) Petition the Judicial Officer for the return of such mail. (ii) The notice must be in writing and served by personal service upon the addressee or by Certified Mail (Return Receipt Requested) and by First Class Mail.

(3) *Enforcement.* Notice of any order issued pursuant to 39 U.S.C. 3003, 3004, and any necessary implementing instructions, are published in the Postal Bulletin.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 88-1265 Filed 1-21-88; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3317-9]

Approval and Promulgation of Implementation Plans; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice announces EPA's final disapproval of the California State Implementation Plan (SIP) for ozone and carbon monoxide (CO) in the South Coast Air Basin (SCAB) which includes Orange County and portions of the counties of Los Angeles, Riverside, and San Bernardino. This final action is being taken under court order because the SIP for the SCAB does not provide for attainment of the ozone and CO national ambient air quality standards (NAAQS) by the statutory deadline of December 31, 1987, or even by any other fixed date in the near term, as required by section 172(a) the Clean Air Act ("the Act") (42 U.S.C. 7502(a)). Pursuant to section 110(a)(2)(I) of the Act and EPA's implementing regulations, this approval results in the imposition of a moratorium on the construction and modification of major stationary sources of CO and volatile organic compounds (VOC) in

the SCAB. (See 40 CFR 52.24 and 42 U.S.C. 7410(a)(2)(I).) Pursuant to Pub. L. 100-202, signed into law December 22, 1987, EPA is designating August 31, 1988, as the effective date for the ban on construction or modification of such major stationary sources.

DATES: EPA's disapproval of the South Coast SIP is effective February 22, 1988. The ban on construction or modification of major sources is effective August 31, 1988.

FOR FURTHER INFORMATION CONTACT:

Wallace D. Woo, Chief, State Liaison Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, California 94105, Telephone: (415) 974-7634; (FTS) 454-7634.

SUPPLEMENTARY INFORMATION:

A. Background

A brief background of the Act and the history of the SCAB SIP is provided here. For a more comprehensive description of the relevant requirements of the Act and EPA's regulatory actions on the SIP for the SCAB, see the proposed disapproval of the SIP for the South Coast and three other areas in California (52 FR 26431, July 14, 1987) and the General Preamble accompanying that notice (52 FR 26404).

The Clean Air Act mandates a system of state implementation plans as the chief mechanism for meeting the NAAQS. Section 110(a)(1) directs the state to submit, within nine months from the promulgation of primary NAAQS, a plan for implementing those NAAQS. Section 110 lays out the criteria for the plan and provides a mechanism for revision of the plan where the Administrator finds that the plan is substantially inadequate to achieve the NAAQS by the relevant deadline.

Recognizing that numerous areas had not been able to attain the NAAQS within the initial timeframe, Congress added Part D to the Act in 1977 which allowed certain "nonattainment" areas to apply for time extensions to December 31, 1982, with the exception that certain areas, in which it was "not possible" to meet that deadline for ozone and CO, could apply for a further extension to December 31, 1987.

California requested, and EPA approved, extensions of the statutory attainment date for the relevant pollutants in SCAB to December 31, 1987. The state then submitted 1982 Plan updates for the ozone and CO SIPs in the SCAB. In 1983, EPA proposed to disapprove these revisions and impose a construction ban. 48 FR 5074 (Feb. 3, 1983). On July 30, 1984, after the state

had submitted further revisions, EPA took final action to approve the CO and ozone control measures submitted by the state, but held open the question of whether to approve the attainment demonstration in the SIP submittal. 49 FR 30300, 30305 (July 30, 1984).

In September 1984, a citizen filed a petition in the Ninth Circuit Court of Appeals for review of EPA's July 30, 1984 decision, contending that EPA violated the Act by approving the SCAB control measures without determining whether those measures would attain the NAAQS by the statutory deadline (*Mark Abramowitz v. United States Environmental Protection Agency*, No. 84-7642 (9th Cir. Nov. 3, 1987)). In July 1987, prior to a decision in that case, EPA repropoed to disapprove the ozone and CO SIP for the SCAB. 52 FR 26408-26409 (July 14, 1987). In that notice, EPA stated that it lacked authority to continue to defer action on the plans for those areas that had not yet submitted a plan demonstrating attainment by the deadline, and that it had no choice but to disapprove the plans for those areas and impose a construction ban under section 110(a)(2)(I).

On November 3, 1987, the Ninth Circuit Court of Appeals issued its opinion in *Abramowitz*, holding that EPA lacked authority to defer action on whether the SCAB plan meets all of the Part D requirements of the act when the agency approved the individual control measures. The Court vacated EPA's approval of the control measures and ordered EPA to "disapprove the relevant SIP provisions." Slip op. at 19.

B. Discussion

Pursuant to the Ninth Circuit Court's instructions in *Mark Abramowitz v. United States Environmental Protection Agency*, EPA is hereby taking final action to disapprove the SIP for the SCAB. As in the case of EPA's July 14, 1987, proposal, the ground for EPA's final disapproval is that it does not demonstrate attainment of the ozone and CO NAAQS by December 31, 1987, or even by any other fixed date in the near term. Under the terms of the Act and EPA's regulations, such final plan disapproval results in the imposition of the construction ban in the South Coast Air Basin for major new sources and major modifications of existing sources of CO and VOC.

Today's action is mandated by the Court's order, and is not an independent Agency final action based on EPA's July 14, 1987, proposal. The Court's decision establishes that EPA has no discretion under the law to postpone the final disapproval. Thus, EPA is not responding directly to public comments

on the EPA's July 14, 1987, proposal. EPA may respond to some of the comments in the future, perhaps in connection with EPA's final policy on how areas like the South Coast should correct their SIPS after December 31, 1987.

Under EPA's interpretation of the Clean Air Act 110(a)(2)(I) and 40 CFR 52.24(a), EPA's disapproval of a Part D SIP triggers a ban on construction or modification of major sources in the area concerned. However, Pub. L. 100-202, signed into law December 22, 1987, prohibits EPA from imposing certain sanctions under the Clean Air Act, including the construction ban, during a moratorium extending through August 30, 1988. Accordingly, while EPA is today taking final action to comply with the Court's order, it is designating August 31, 1988 as the effective date for the construction ban.¹

C. Final Action

In response to the Court's order, EPA is today taking final action to disapprove the ozone and CO SIP for the SCAB. Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d), this disapproval is effective February 22, 1988. Pursuant to Pub. L. 100-202, the effective date for the construction ban is August 31, 1988.

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget for review.

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities. EPA does not have sufficient information to determine the impacts that the construction moratorium announced in today's notice may have on small entities, because it is difficult to obtain reliable information

¹ Any major source for which the construction permit application is complete (as explained in 52 FR 26404, 26409 n. 18 (July 14, 1987)) on or before August 30, 1988 will not be subject to the section 110(a)(2)(I) construction ban.

EPA has historically read section 110(a)(2)(I) as exempting from the construction ban a source whose "complete" application predates the effective date of the disapproval triggering the construction ban. See *id.* and 40 CFR 52.24(a). Under this practice, EPA's disapproval of the South Coast Part D SIP would ordinarily result in a ban on construction of any source whose permit application is not "complete" as of [thirty days from publication], the effective date for the disapproval. However, Pub. L. 100-202 directs that no Clean Air Act 110(a)(2)(I) sanction shall be "imposed or take effect" during the period prior to August 31, 1988 in any of three circumstances, including a state's failure to attain the ozone or CO NAAQS or to submit a SIP meeting the requirements of Part D. Accordingly, EPA's disapproval of the South Coast SIP does not constitute a prohibition on permitting of any source whose permit application is completed prior to August 31, 1988.

on future plans for business growth. Even if this action were to have a significant impact, however, the Agency could not modify its action. Under the Act, the imposition of a construction moratorium is mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the Act, and that determination, in turn, is required by the Ninth Circuit's decision.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 22, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollutin control, Ozone, Carbon monoxide, Intergovernmental relations.

Dated January 13, 1988.

Lee M. Thomas,
Administrator.

40 CFR Part 52, Subpart F, is amended as follows:

PART 52—[AMENDED]

Subpart F—California

1. The authority citation for Part 52 continues to read as follows:
Authority: 42 U.S.C. 7401-7642.

2. Section 52.237 is amended by adding paragraph (a)(1) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(1) The ozone and CO attainment demonstrations for the South Coast Air Basin. No major stationary source, or major modification of a stationary source, of carbon monoxide or volatile organic compounds may be constructed in the South Coast Air Basin unless the construction permit application is complete on or before August 30, 1988.

[FR Doc. 88-1305 Filed 1-21-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

An Indefinite Extension of the Part 15 Interim Provisions for Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action will permit continued manufacture, importation, and marketing of cordless telephones that operate near frequencies at 46 and 49 MHz beyond the dates indicated in the rules. Current rules require the manufacturing and importation of cordless telephones to end by February 15, 1989, while, marketing is to end by February 15, 1990. Hence, this action is intended to allow cordless telephones continued operation at frequencies near 46 and 49 MHz. Furthermore, in order to lessen the chances of interference between cordless telephones, the rules are revised to ease the channeling requirements.

EFFECTIVE DATE: March 1, 1988.

ADDRESS: Federal Communications Commission; Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph P. Husnay, Office of Engineering and Technology, (202) 653-8106.

SUPPLEMENTARY INFORMATION: Cordless telephones have been operating under interim provisions that are soon to expire. The cordless telephone industry, therefore, asked the Commission to extend the rules and to increase the number of channels they could communicate on. The Commission agreed to extending the current rules but could not provide additional channels. Instead of providing additional channels the Commission relaxed the rules so that the industry may use advanced technology to split the channels currently available. Although the industry is not forced to divide the channels, they may do so to increase the number of channels cordless telephones use.

Ordering Clauses

1. This action is taken pursuant to 47 U.S.C. sections 154(i), 302, 303(r), and section 553 of the Administrative Procedure Act, 5 USC 553.

2. Accordingly, *It is ordered*, that Part 15 of the Commission's Rules is amended as specified below.

3. *It is further ordered* that this proceeding is terminated.

List of Subjects in 47 CFR Part 15

Telephone.

Rule Changes

Part 15 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 15—RADIO FREQUENCY DEVICES

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply sec. 301, 48 Stat. 1081; 47 U.S.C. 301.

2. Section 15.231 is amended by revising the title and removing the last sentence.

§ 15.231 Provisions for cordless telephones.

* * * * *

3. The title and first sentence of § 15.232 are revised to read:

§ 15.232 Frequencies for cordless telephones.

A cordless telephone shall be operated on any frequency within 10 kHz of the following frequencies.

* * * * *

4. Section 15.233 is amended as follows: Paragraph (a) is amended by revising the first sentence. Paragraph (b) is amended by revising the first and second sentences. Paragraph (d) is amended by revising the first sentence up to the colon. Revisions are as follows:

§ 15.233 Technical specifications.

* * * * *

(a) Frequency tolerance of the carrier shall not be greater than $\pm 0.01\%$.

* * * * *

(b) The fundamental emission shall be confined within a 20 kHz band centered on the frequencies listed in § 15.232. Modulation products outside of this 20 kHz band shall be attenuated at least 26 dB below the level of the unmodulated carrier.

* * * * *

(d) Harmonics and other out-of-band emissions, on any frequency more than 20 kHz removed from the frequencies listed in § 15.232 shall comply with the field strength limitations in the following table:

* * * * *

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-1209 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-27; RM-5364]

Radio Broadcasting Services; Wilmington, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants the request of Woolfson Broadcasting Corporation of Wilmington, Inc. to

substitute Channel 266C2 for Channel 265A at Wilmington, North Carolina, and the modification of its license for Station WWQQ-FM to specify the higher powered channel. Channel 266C2 can be allocated to Wilmington with a site restriction of 28.7 kilometers south to accommodate petitioner's desired site. The Commission found that grant of the mutually exclusive application of Winfas of Belhaven specifying Channel 266C2 for Station WJKA at Belhaven, North Carolina, not to be in the public interest. Rather, it found that WJKA could specify a site which would not conflict with the requested upgrade at Wilmington, thus permitting a more efficient use of the spectrum by allowing increased service to be provided to the residents of both the Belhaven and Wilmington areas. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 29, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order, MM Docket No. 86-27, adopted December 10, 1987, and released January 14, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Wilmington, North Carolina, is amended by adding Channel 266C2 and deleting Channel 265A.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-1221 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87-05; Notice 2]

Federal Motor Vehicle Safety Standards—Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration [NHTSA], DOT.

ACTION: Final rule.

SUMMARY: This document amends Federal motor vehicle safety standard 213, *Child Restraint Systems*, to permit installing built-in child restraint systems in passenger cars. The agency initiated this action in response to a petition for rulemaking submitted by Mr. Verne L. Freeland. As amended, Standard 213 sets performance requirements both for add-on child restraints systems, and for child restraint systems that form an integral part of a vehicle seat (built-in restraints).

DATE: This final rule is effective on January 22, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Vladislav Radovich, Office of Vehicle Safety Standards, NRM-12, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-4924).

SUPPLEMENTARY INFORMATION: On March 23, 1987, NHTSA published a notice of proposed rulemaking (NPRM) in response to a petition from Mr. Verne L. Freeland. (52 FR 9194). Mr. Freeland asked that the agency amend Standard 213, *Child Restraint Systems*, to permit the production and installation of a child restraint system that forms an integral part of a vehicle seat (built-in child restraint system). Standard 213 was issued by the agency under the National Traffic and Motor Vehicle Safety Act. (15 U.S.C. 1392 et seq.) When Mr. Freeland submitted his petition, the Standard set out performance requirements for a child restraint system that is placed on a vehicle seat and held in position by a vehicle lap belt (add-on child restraint system).

Because add-on child restraint systems were the only type of child restraint system produced when the agency issued Standard 213 in 1970, the Standard addressed that kind of restraint, although some specifications would have been appropriate for built-in restraints. Recognizing that some Standard 213 provisions might apply either to built-in or add-on restraints, the agency proposed to amend the

Standard only to the extent necessary to accommodate built-in restraints. In those instances where specifications would not accommodate built-in restraints, the agency proposed creating a separate requirement for each kind of restraint. NHTSA is adopting the amendments set out in the NPRM without change.

The agency received two comments on the proposed rule. A private citizen favored the amendment, stating that the convenience of a built-in child restraint might increase system use, and that instruction and labeling would facilitate appropriate use. The second commenter was Volvo Cars of North America (Volvo). Volvo generally favored the proposed amendment because the agency would be removing restrictions that inhibit innovation in child restraint systems design.

However, the company suggested that NHTSA delete the knee excursion requirement in subparagraph S5.1.3.1(b). The knee excursion requirement exists to preclude a child restraint system design that controls unacceptable forward head movement under test conditions by allowing excessive forward and down movement of the lower body. When a test dummy slides excessively forward and down, legs first, under crash test conditions, the phenomenon is called "submarining."

The company gave two reasons for its suggestion that the agency delete the knee excursion requirement for built-in child restraint systems. The first was that because section S5.4.3.3 of the Standard requires a 5-point harness (including a crotch strap), the risk of submarining is minimal; therefore, the knee excursion requirement is unnecessary. The second reason is the difficulty in filming knee excursion during a crash test given that a manufacturer must test a built-in restraint in a complete vehicle or body shell. (One tests an add-on child restraint by securing it to a special test platform traveling at an equivalent vehicle speed of 30 miles per hour.) NHTSA rejects Volvo's suggestion for the following reasons.

The 5-Point Harness and Reduced Submarining Risk. First, contrary to Volvo's comment, S5.4.3.3 allows child restraint systems other than a 5-point harness system. Because those systems may not include a crotch strap, the risk of submarining is significant and the need for a knee excursion requirement is indisputable. However, Volvo correctly observes that the risk of submarining is "very small" for current child restraint systems that use a 5-point harness. On the other hand, a critical reason that the

agency has a knee excursion requirement is to discourage a manufacturer's permitting excessive knee excursion in order to achieve acceptable head excursion or injury limitations. NHTSA wishes to preclude this kind of trade-off in any type of restraint system, and therefore declines to eliminate the knee-excursion requirement.

Difficulty in Filming Knee Excursion During a Crash Test. NHTSA finds this argument without merit. The technology of photographing events occurring in actual or simulated vehicle crashes is well-developed. To record events inside a vehicle during a crash, it is common practice both in research and compliance testing to mount a camera facing inward either on a stationary bracket, or on a bracket attached to the automobile or sled-structure. A built-in child restraint systems manufacturer can use a similar procedure to record knee excursion.

NHTSA recognizes that it may not be easy to combine the knee excursion test with other vehicle tests; therefore, installing a built-in restraint in a vehicle may add to development costs. On the other hand, the agency does not require that a manufacturer install such a system, and these added costs may be avoided simply through the manufacturer's election not to offer built-in restraints. A manufacturer which chooses to provide a built-in restraint system must be willing to make a reasonable assessment of the system's safety.

Conclusion. NHTSA concludes that built-in child restraint systems can provide a level of safety at least equal to that provided by add-on child restraint systems. Additionally, the agency notes that a built-in child restraint system may encourage system use because these systems will be available as an integral part of the vehicle.

Therefore, the agency adopts the changes to Federal motor vehicle safety standard 213 set out in the NPRM published on March 23, 1987.

Effective Date. This rule will make manufacturing child restraint systems less restrictive by permitting production and installation of a new type of system. Further, the Standard as amended does not require a manufacturer to include the system in its product line, but rather expands manufacturer options. Because the rule relieves a restriction, there is good cause for making it effective immediately, i.e., on the publication date.

Impact Assessments

A. Executive Order 12291

NHTSA has considered costs and other factors associated with providing built-in child restraints, and concludes that this rule is non-major under Executive Order 12291. Increased consumer costs for passenger cars equipped with built-in systems will be a consequence of production volume, and design engineering and development costs. For a large vehicle manufacturer, the costs of testing a built-in child restraint system probably would be minimal when averaged over large production volumes. On the other hand, such testing could be a significant cost for low volume vehicle manufacturers.

While NHTSA has no data on the cost of a built-in child restraint system, the agency notes that this amendment does not require installing these restraints. Rather, a manufacturer now may exercise an option to provide built-in child restraint systems and incur the cost of testing the product or otherwise exercise due care in certifying compliance, or decline to install built-in child restraint systems.

For these reasons, the rule imposes no new costs on manufacturers, and therefore is not likely to have an annual effect on the economy of \$100 million; to result in a major increase either in motor vehicle production costs or prices; or to have significant adverse impacts on competition or market incentives.

B. Department of Transportation Order 2100.5: Improving Government Regulations

For the reasons set out in the preceding discussion, and further because the Administrator has determined that this final rule does not involve the non-economic concerns set out in DOT Order 2100.5, the agency finds that this rule is not significant with the meaning of DOT Order 2100.5.

C. Small Business Impact

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. The built-in child safety seat is an innovative product that may be installed in a vehicle at the vehicle manufacturer's discretion. Some manufacturers of add-on child restraints are small businesses under SBA guidelines. If motor vehicle manufacturers begin offering built-in child restraints in passenger cars and consumers start to purchase them in large numbers, there could be a negative impact on add-on child restraint sales.

However, this scenario may not materialize. NHTSA cannot evaluate with certainty the economic future or potential effects of these devices on small businesses, and the agency did not receive comments on the proposed rule addressing these potential effects. Further, neither the Regulatory Flexibility Act nor the Vehicle Safety Act was intended to limit the opportunity of businesses to develop and market new safety devices.

D. Environmental Impact

Under the National Environmental Policy Act of 1969, NHTSA has considered the environmental impact of this rule, and has determined that this rule would not be a major Federal action significantly affecting the quality of the human environment.

E. Paperwork Reduction Act

The requirement that manufacturers include instructions in the vehicle owner's manual on using built-in restraints is a collection of information requirement under the Paperwork Reduction Act. OMB approved this requirement through April 1990, under the Act (44 U.S.C. 3501, *et seq.*). The OMB control number is 2127-0542.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA amends Title 49, Part 571.213, *Child Restraint Systems*, as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

Standard No. 213

§ 571.213 [Amended]

2. S4 of 49 CFR 571.213 is amended to add three new definitions in alphabetical order as follows:

"Add-on child restraint system" means any portable child restraint system.

"Built-in child restraint system" means any child restraint system which is an integral part of a passenger car.

"Specific vehicle shell" means the actual vehicle model part into which the built-in child restraint system is fabricated, including the complete surroundings of the built-in system. If the built-in child restraint system is manufactured as part of the rear seat, these surroundings, include the back of the front seat, the interior rear side door panels and trim, the rear seat, the floor pan, the B and C pillars, and the ceiling.

If the built-in system is manufactured as part of the front seat, these surroundings include the dashboard; the steering wheel, column, and attached levers and knobs; the "A" pillars; any levers and knobs installed in the floor or on a console; the interior front side door panels and trim; the front seat; the floor pan; and the ceiling.

3. The introductory paragraph of S5 of 49 CFR 571.213 is revised to read as follows:

S5 *Requirements for child restraint systems certified for use in motor vehicles.* Each child restraint system certified for use in motor vehicles shall meet the requirements in this section when, as specified, tested in accordance with S6.1.

4. S5.1.3.1 of 49 CFR 571.213 is revised to read as follows:

S5.1.3.1 *Child restraint systems other than rear-facing ones and car beds.* Each child restraint system, other than a rear-facing child restraint system or a car bed, shall retain the test dummy's torso within the system.

(a) In the case of an add-on child restraint system, no portion of the test dummy's head shall pass through a vertical transverse plane that is 32 inches forward of point z on the standard seat assembly, measure along the center SORL (as illustrated in figure 1B), and neither knee pivot point shall pass through a vertical, transverse plane that is 36 inches forward of point z on the standard seat assembly, measured along the center SORL.

(b) In the case of a built-in child restraint system, neither knee pivot shall pass through a vertical, transverse plane that is 36 inches forward of the hinge point of the specific passenger car seat into which the system is built, measured along a horizontal line parallel to the vehicle's longitudinal center line and the center line of the passenger car seat.

5. S5.2.1.2 of 49 CFR 571.213 is revised to read as follows:

S5.2.1.2 A front-facing child restraint system is not required to comply with S5.2.1.1 if the target point on either side of the dummy's head is below a horizontal plane tangent to the top of—

(a) The standard seat assembly, in the case of an add-on child restraint system, when the dummy is positioned in the system and the system is installed on the assembly in accordance with S6.1.2.

(b) the passenger car seat, in the case of a built-in child restraint system, when the system is activated and the dummy is positioned in the system in accordance with S6.1.2.

6. S5.2.2.2 of 49 CFR 571.213 is revised to read as follows:

S5.2.2.2 Each forward-facing child restraint system shall have no fixed or movable surface—

(a) Directly forward of the dummy and intersected by a horizontal line—

(1) Parallel to the SORL, in the case of the add-on child restraint system, or

(2) Parallel to a vertical plane through the longitudinal center line of the passenger car seat, in the case of the built-in child restraint system, and

(b) Passing through any portion of the dummy, except for surfaces which restrain the dummy when the system is tested in accordance with S6.1.2.1.2, so that the child restraint system shall conform to the requirements of S5.1.2 and S5.1.3.1.

7. S5.3.1 and S5.3.2 of 49 CFR 571.213 is revised to read as follows:

S5.3.1 Each add-on child restraint system shall have no means designed for attaching the system to a vehicle seat cushion and vehicle seat back and no component (except belts) that is designed to be inserted between the vehicle seat cushion and vehicle seat back.

S5.3.2 When installed on a vehicle seat, each add-on child restraint system, other than child harnesses, shall be capable of being restrained against forward movement solely by means of a Type I seat belt assembly (defined in § 571.209) that meets Standard No. 208 (§ 571.208), or by means of a Type I seat belt assembly plus one additional anchorage strap that is supplied with the system and conforms to S5.4.

8. S5.4.3.2 of 49 CFR 571.213 is revised to read as follows:

S5.4.3.2 *Direct restraint.* Each belt that is part of a child restraint system and that is designed to restrain a child using the system and to attach the system to the vehicle shall, when tested in accordance with S6.1, impose no loads on the child that result from the mass of the system, or

(a) in the case of an add-on child restraint system, for the mass of the seat back of the standard seat assembly specified in S7.3, or

(b) in the case of a built-in child restraint system, from the mass of any part of the vehicle into which the child restraint system is built.

9. S5.5.1 of 49 CFR 571.213 is revised to read as follows:

S5.5.1 Each add-on child restraint system shall be permanently labeled with the information specified in S5.5.2 (a) through (l).

10. S5.5.3 of 49 CFR 571.213 is revised to read as follows:

S5.5.3 The information specified in S5.5.2 (g) through (k) shall be located on the add-on child restraint system so that

it is visible when the system is installed as specified in S5.6.1.

11. A new paragraph S5.5.4 is added to 49 CFR 571.213 to read as follows:

S5.5.4 Each built-in child restraint system shall be permanently labeled with the information specified in S5.5.5 (a) through (j), so that it is visible when the system is activated for use as specified in S5.6.2.

12. A new paragraph S5.5.5 is added to 49 CFR 571.213 to read as follows:

S5.5.5 The information specified in paragraphs (a) through (j) of this section shall be stated in the English language and lettered in letters and numbers which are not smaller than 10-point type and are on a contrasting background. This information shall be printed in the vehicle owner's manual.

(a) The model name or number of the system.

(b) The manufacturer's name. A distributor's or dealer's name may be used instead if the distributor or dealer assumes responsibility for all duties and liabilities imposed on the manufacturer with respect to the system by the National Traffic and Motor Vehicle Safety Act, as amended.

(c) The statement: "Manufactured in _____," inserting the month and year of manufacture.

(d) The place of manufacture (city and State, or foreign country). However, if the manufacturer uses the name of the distributor or dealer, then it shall state the location (city and State, or foreign country) of the principal offices of the distributor or dealer.

(e) The statement: "This child restraint system conforms to all applicable Federal motor vehicle safety standards."

(f) One of the following statements, inserting the manufacturer's recommendations for the maximum weight and height of children who can safely occupy the system:

(i) This infant restraint is designed for use by children who weigh _____ pounds or less and whose height is _____ inches or less;

(ii) This child restraint is designed for use only by children who weigh between _____ and _____ pounds and whose height is _____ inches or less and who are capable of sitting upright alone; or

(iii) This child restraint is designed for use by children who weigh between _____ and _____ pounds and are between _____ and _____ inches in height.

(g) The following statement:
WARNING! FAILURE TO FOLLOW THE MANUFACTURER'S INSTRUCTIONS ON THE USE OF THIS CHILD RESTRAINT SYSTEM CAN RESULT IN YOUR CHILD STRIKING

THE VEHICLE'S INTERIOR DURING A SUDDEN STOP OR CRASH.

(h) In the case of each built-in child restraint system that has belts designed to restrain children using them:

SNUGLY ADJUST THE BELTS PROVIDED WITH THIS CHILD RESTRAINT AROUND YOUR CHILD.

(i) In the case of each built-in child restraint which can be used in a rear-facing position, the following statement:

PLACE AN INFANT IN A REAR-FACING POSITION IN THIS CHILD RESTRAINT.

(j) A diagram or diagrams showing the fully activated child restraint system in infant and/or child configurations.

13. S5.6 of 49 CFR 571.213 is revised to read as follows:

S5.6 *Printed Instructions for Proper Use.*

S5.6.1 *Add-on child restraint systems.* Each add-on child restraint system shall be accompanied by printed installation instructions in the English language that provide a step-by-step procedure, including diagrams, for installing the system in motor vehicles, securing the system in the vehicles, positioning a child in the system, and adjusting the system to fit the child.

S5.6.1.1 In a vehicle with rear designated seating positions, the instructions shall alert vehicle owners that, according to accident statistics, children are safer when properly restrained in the rear seating positions than in the front seating positions.

S5.6.1.2 The instructions shall specify in general terms the types of vehicles, the types of seating positions, and the types of vehicle safety belts with which the add-on child restraint system can or cannot be used.

S5.6.1.3 The instructions shall explain the primary consequences of not following the warnings required to be labeled on the child restraint system in accordance with S5.5.2 (g) through (k).

S5.6.1.4 The instructions for each car bed shall explain that the car bed should position in such a way that the child's head is near the center of the vehicle.

S5.6.1.5 The instructions shall state that add-on child restraint systems should be securely belted to the vehicle, even when they are not occupied, since in a crash an unsecured child restraint system may injure other occupants.

S5.6.1.6 Each add-on child restraint system shall have a location on the restraint for storing the manufacturer's instructions.

S5.6.2 *Built-in Child restraint systems.* Each built-in child restraint system shall be accompanied by printed instructions

in the English language that provide a step-by-step procedure, including diagrams, for activating the built-in child restraint system, positioning a child in the system, adjusting the restraint and, if provided, the restraint harness to fit the child. This information and the information specified in S5.5.5, shall be included in the vehicle owner's manual.

S5.6.2.1 The instructions shall explain the primary consequences of not following the manufacturer's warnings for proper use of the child restraint system in accordance with S5.5.5(f) through (i).

14. S5.7 of 49 CFR 571.213 is revised to read as follows:

S5.7 *Flammability*. Each material used in a child restraint system shall conform to the requirements of S4 of FMVSS No. 302 (571.302). In the case of a built-in child restraint system, the requirements of S4 of FMVSS No. 302 shall be met in both the "in-use" and "stowed" positions.

15. S6.1.1.1 of 49 CFR 571.213 is revised to read as follows:

S6.1.1.1 (a) The test device for add-on child restraint systems is the standard seat assembly specified in S7.3. The assembly is mounted on a dynamic test platform so that the center SORL of the seat is parallel to the direction of the test platform travel and so that movement between the base of the assembly and the platform is prevented. The test device for built-in child restraint systems is either the specific vehicle shell or the specific vehicle. The specific vehicle shell, if selected for testing, is mounted on a dynamic test platform so that the longitudinal center line of the shell is parallel to the direction of the test platform travel and so that movement between the base of the shell and the platform is prevented.

(b) The platform is instrumented with an accelerometer and data processing system having a frequency response of 60 Hz channel class as specified in Society of Automotive Engineers Recommended Practice J211 JUN80 "Instrumentation for Impact Tests." The accelerometer sensitive axis is parallel to the direction of test platform travel.

(c) For built-in child restraint systems, an alternate test device is the specific vehicle into which the built-in system is fabricated. Activate the system in accordance with the manufacturer's instructions provided in the vehicle owner's manual in accordance with S5.6.2. When the complete vehicle traveling longitudinally forward at any speed up to and including 30 mph, impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, the built-in child restraint system shall meet the injury criteria of

S5.1.2. The following test conditions apply to this alternate test device.

(i) The vehicle is loaded to its unloaded vehicle weight plus its rated cargo and luggage capacity weight, secured in the luggage area, plus the appropriate child test dummy and, at the option of the manufacturer, an anthropomorphic test dummy which conforms to the requirements of Subpart B or Subpart E of Part 572 of this title for a 50th percentile adult male dummy placed in the front outboard seating position. If the built-in child restraint system is installed at one of the seating positions otherwise requiring the placement of a Part 572 test dummy, then in the frontal barrier crash specified in S6.1.1.2, the appropriate child test dummy shall be substituted for the Part 572 test dummy, but only at that seating position. The fuel tank is filled to any level from 90 to 95 percent of capacity.

(ii) Adjustable seats are in the adjustment position midway between the forward-most and rearmost positions, and if separately adjustable in a vertical direction, are at the lowest position. If an adjustment position does not exist midway between the forward-most and rearmost positions, the closest adjustment position to the rear of the midpoint is used.

(iii) Adjustable seat backs are in the manufacturer's nominal design riding position. If a nominal position is not specified, the seat back is positioned so that the longitudinal center line of the child test dummy's neck is vertical, and if an anthropomorphic test dummy is used, the accelerometer surfaces in the test dummy's head and thorax, as positioned in the vehicle, are horizontal. If the vehicle is equipped with adjustable head restraints, each is adjusted to its highest adjustment position.

(iv) Movable vehicle windows and vents are, at the manufacturer's option, placed in the fully closed position.

(v) Convertibles and open-body type vehicles have the top, if any, in place in the closed passenger compartment configuration.

(vi) Doors are fully closed and latched but not locked.

(vii) All instrumentation and data reduction is in conformance with SAE J211 JUN80.

15a. S6.1.1.2 is revised to read as follows:

S6.1.1.2 The tests are frontal barrier impact simulations of the test platform or frontal barrier crashes of the specific vehicles as specified in S5.1 (571.208) and for:

(a) Test Configuration I specified in S6.1.2.1.1, are at a velocity change of 30

mph with the acceleration of the test platform entirely within the curve shown in Figure 2, or for the specific vehicle test with the deceleration produced in 30 mph frontal barrier crash.

(b) Test Configuration II specified in S6.1.2.1.2 are set at a velocity change of 20 mph with the acceleration of the test platform entirely within the curve shown in Figure 3, or for the specific vehicle test with the deceleration produced in 20 mph frontal barrier crash.

16. S6.1.1.3 of 49 CFR 571.213 is revised to read as follows:

S6.1.1.3 In the case of add-on child restraint systems, Type 1 seat belt assemblies meeting the requirements of Standard No. 209 (§ 571.209) and having webbing with a width of not more than 2 inches are attached, without the use of retractors or reels of any kind, to the seat belt anchorage points (illustrated in Figure 1B) provided on the standard seat assembly.

17. S6.1.2.1 of 49 CFR 571.213 is revised to read as follows:

S6.1.2.1 *Test configuration*.

S6.1.2.1.1 *Test configuration I*. (a) In the case of each add-on child restraint system other than a child harness, a booster seat with a top anchorage strap, or a restraint designed for use by physically handicapped children, install a new add-on child restraint system at the center seating position of the standard seat assembly in accordance with the manufacturer's instructions provided with the system pursuant to S5.6.1, except that the add-on restraint shall be secured to the standard vehicle seat using only the standard vehicle lap belt. A child harness, a booster seat with a top anchorage strap, or a restraint designed for use by physically handicapped children shall be installed at the center seating position of the standard seat assembly in accordance with the manufacturer's instructions provided with the system pursuant to S5.6.1.

(b) In the case of each built-in child restraint system, activate the restraint in the specific vehicle shell or the specific vehicle, in accordance with the manufacturer's instructions provided in the vehicle owner's manual in accordance with S5.6.2.

S6.1.2.1.2 *Test configuration II*. (a) In the case of each add-on child restraint system which is equipped with a fixed or movable surface described in S5.2.2.2, or a booster seat with a top anchorage strap, install a new add-on child restraint system at the center seating position of the standard seat assembly

using only the standard seat lap belt to secure the system to the standard seat.

(b) In the case of each built-in child restraint system which is equipped with a fixed or movable surface described in S5.2.2.2, or a built-in booster seat with a top anchorage strap, activate the system in the specific vehicle shell or the specific vehicle in accordance with the manufacturer's instructions provided in the vehicle owner's manual in accordance with S5.6.2.

18. S6.1.2.2 of 49 CFR 571.213 is revised to read as follows:

S6.1.2.2 Tighten all belts used to attach the add-on child restraint system to the standard seat assembly to a tension of not less than 12 pounds and not more than 15 pounds, as measured by a load cell used on the webbing portion of the belt. Tighten all manual vehicle belts used to secure the built-in child restraint system or a child to the specific vehicle shell or specific vehicle to one of the following tensions:

(a) For a seat equipped with a manual adjuster or automatic locking retractor, not less than 12 pounds and not more than 15 pounds, as measured by a load cell used on the webbing portion of the belt;

(b) For a seat equipped with an emergency locking retractor, as specified in S4.3 of Standard 209.

19. S6.1.2.3.1 of 49 CFR 571.213 is revised to read as follows:

S6.1.2.3.1 When placing the 3-year-old test dummy in add-on or built-in child restraint systems other than car beds, position the test dummy according to the instructions for child positioning provided by the manufacturer with the system in accordance with S5.6.1 or S5.6.2 while conforming to the following:

(a) Holding the test dummy torso upright until it contacts the system's design seating surface, place the test dummy in the seated position within the system with the midsagittal plane of the test dummy head—

(1) Coincident with the center SORL of the standard seating assembly, in the case of the add-on child restraint system, or

(2) Vertical and parallel to the longitudinal center line of the specific vehicle shell or the specific vehicle, in the case of a built-in child restraint system.

(b) Extend the arms of the test dummy as far as possible in the upward vertical direction. Extend the legs of the dummy as far as possible in the forward horizontal direction, with the dummy feet perpendicular to the centerline of the lower legs.

(c) Using a flat square surface with an area of 4 square inches, apply a force of 40 pounds, perpendicular to:

(i) The plane of the back of the standard seat assembly in the case of an add-on child restraint system, or

(ii) The back of the vehicle seat in the specific vehicle shell or the specific vehicle in the case of a built-in child restraint system, first against the dummy crotch and then at the dummy thorax in the midsagittal plane of the dummy. For a child restraint system with a fixed or movable surface described in S5.2.2.2, which is being tested under the conditions of test configuration II, do not attach any of the child restraint belts unless they are an integral part of the fixed or movable surface. For all other child restraint systems and for a child restraint system with a fixed or movable surface which is being tested under the conditions of test configuration I, attach all appropriate child restraint belts and tighten them as specified in S6.1.2.4. Attach all appropriate vehicle belts and tighten them as specified in S6.1.2.2. Position each movable surface in accordance with the manufacturer's instructions provided in accordance with S5.6.1 or S5.6.2.

(d) After the steps specified in paragraph (c) of this section, rotate each dummy limb downwards in the plane parallel to the dummy's midsagittal plane until the limb contacts a surface of the child restraint system or the standard seat assembly in the case of an add-on system, or the specific vehicle shell or specific vehicle in the case of a built-in system, as appropriate. Position the limbs, if necessary, so that limb placement does not inhibit torso or head movement in tests conducted under S6.

20. S6.1.2.3.2 of 49 CFR 571.213 is revised to read as follows:

S6.1.2.3.2 When placing the 6-month-old dummy in add-on or built-in child restraint systems other than car beds, position the test dummy according to the instructions for child positioning provided with the system by the manufacturer in accordance with S5.6.1 or S5.6.2 while conforming to the following:

(a) With the dummy in the supine position on a horizontal surface, and while preventing movement of the dummy torso by placing a hand on the center of the torso, rotate the dummy legs upward by lifting the feet until the legs contact the upper torso and the feet touch the head, and then slowly release the legs but do not return them to the flat surface.

(b) Place the dummy in the child restraint system so that the back of the dummy torso contacts the back support surface of the system. For a child restraint system which is equipped with a fixed or movable surface described in

S5.2.2.2, which is being tested under the conditions of test configuration II, do not attach any of the child restraint belts unless they are an integral part of the fixed or movable surface. For all other child restraint systems and for a child restraint system with a fixed or movable surface which is being tested under the conditions of test configuration I, attach all appropriate child restraint belts and tighten them as specified in S6.1.2.4. Attach all appropriate vehicle belts and tighten them as specified in S6.1.2.2. Position each movable surface in accordance with the manufacturer's instructions provided in accordance with S5.6.1 or S5.6.2. If the dummy's head does not remain in the proper position, it shall be taped against the front of the seat back surface of the system by means of a single thickness of 1/4-inch-wide paper masking tape placed across the center of the dummy's face.

(c) Position the dummy arms vertically upwards and then rotate each arm downward toward the dummy's lower body until the arm contacts a surface of the child restraint system or the standard seat assembly in the case of an add-on child restraint system, or the specific vehicle shell or the specific vehicle in the case of a built-in child restraint system, ensuring that no arm is restrained from movement in other than the downward direction, by any part of the system or the belts used to anchor the system to the standard seat assembly, the specific vehicle shell, or the specific vehicle.

21. S6.1.2.6 of 49 CFR 571.213 is revised to read as follows:

S6.1.2.6 For add-on child restraint systems, measure dummy excursion and determine conformance with the requirements specified in S5.1 as appropriate. For built-in child restraint systems, measure dummy knee excursion and determine conformance with the requirements specified in S5.1 as appropriate.

22. S6.2.3 of 49 CFR 571.213 is revised to read as follows:

S6.2.3 Pull the sling horizontally in the manner illustrated in figure 4 and parallel to the center SORL of the standard seat assembly, in the case of an add-on child restraint system, or parallel to the longitudinal center line of either the specific vehicle shell or the specific vehicle, in the case of a built-in child restraint system, and apply a force of 20 pounds in the case of a system tested with a 6-month-old dummy and 45 pounds in the case of a system tested with a 3-year-old dummy.

23. S7.3 of 49 CFR 571.213 is revised to read as follows:

S7.3 *Standard test devices.*

(a) The standard test devices used in testing add-on child restraint systems under this standard are:

(1) For testing for motor vehicle use, a standard seat assembly consisting of a simulated vehicle bench seat, with three seating positions, which is described in Drawing Package SAS-100-1000 (consisting of drawings and a bill of materials); and

(2) For testing for aircraft use, a standard seat assembly consisting of a representative aircraft passenger seat.

(b) The standard test devices used in testing built-in child restraint systems under this standard are either a specific vehicle shell or a specific vehicle.

Issued on: January 15, 1988.

Diane K. Steed,

Administrator.

[FR Doc. 88-1171 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register

Vol. 53, No. 14

Friday, January 22, 1988

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213 and 338

Conversion of Cooperative Education Program Students; Restriction on Sons and Daughters

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing the use of Schedule B appointing authorities to permit the noncompetitive conversion of qualified Cooperative Education Program (Co-op) students into clerical, administration support, technician, helper and preapprentice occupations in the Federal service. OPM is also proposing the use of employment of relatives restrictions in lieu of sons and daughters restrictions. These changes will strengthen the Federal service by providing simplified career entry for Co-op students based on their demonstrated performance in study-related work assignments in Federal agencies.

DATE: Comments must be received on or before February 22, 1988.

ADDRESS: All comments concerning these proposed regulations should be addressed to Fran Lopes, Assistant Director for Recruiting and Special Personnel Programs, Office of Personnel Management, 1900 E Street, NW., Room 6355 Attn: CO-OP, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Marsha E. Frost, (202) 632-0496.

SUPPLEMENTARY INFORMATION:

Cooperative Education Program: Cooperative education is a method of education which includes full-time or part-time periods of study and paid employment related to a student's academic study or career goals in order to qualify for permanent employment upon graduation. It is a planned and progressive educational program designed to attract quality students into the labor force. A working agreement

dealing with education and work requirements must exist between the educational institution, employer, and student at the time of appointment. A key feature of the program is the noncompetitive conversion of a student from the excepted service into the competitive service after satisfactory completion of educational and work requirements as authorized under Executive Order 12015, dated October 22, 1977. Currently, Federal Co-op students in baccalaureate, graduate, and associate degree-granting programs are eligible for noncompetitive conversion under 5 CFR 213.3202 (a), (b), and (c), respectively, if they satisfactorily complete degree requirements combined with study-related work assignments in a Federal agency.

Recently, a Federal Task Force comprised of representatives from Federal agencies, educational institutions, the Department of Education and the Office of Personnel Management reviewed regulations pertaining to Co-op Programs in an effort to simplify guidance, grant more flexibility to Federal agencies, and increase the quality of student employment programs Governmentwide. Concurrently, a study was undertaken of clerical and administrative support occupations and of the need to identify proactive approaches to alleviate recruiting shortages in major metropolitan areas in order to meet future work force demands. Recommendations to establish the proposed regulations and simplify processes were strongly endorsed by both task groups. The proposals basically apply the same requirements to high school and undergraduate certificate program students as exist in the higher education Co-op programs.

In 1986, there were 2,080 students in the High School Co-op Program. Currently, high school students, upon graduation, have their appointments terminated in the Co-op program and they must re compete for Federal service positions. This usually occurs after students have performed successfully and for a substantial period of time on the job in a Federal agency. Through noncompetitive conversion of high school Co-op students, we can improve the efficiency and effectiveness of Federal staffing programs and the Government can gain trained personnel in clerical, administrative support,

technician, helper and preapprentice occupations. The same concept applies to students in undergraduate certificate programs, who previously have not been eligible for participation in Co-op programs. These revisions also eliminate the use of § 213.3102(g) and (q), Schedule A appointing authorities, for Co-op students, since Schedule B will be used for Co-op students at all educational levels of study.

Restriction on Hiring of Sons and Daughters: In line with program simplification efforts, OPM is recommending removal of § 213.3201(b) and 338.202(d) "Restriction on sons and daughters," for student employment programs conducted under Executive Order 12015. These regulations are already covered under § 310.103 (a), (b), and (c), "Restrictions on the Employment of Relatives," which state that a "public official shall not advocate one of his/her "relatives" and/or appoint, employ, promote, or advance them to a position in his/her agency or in an agency over which he/she exercises jurisdiction or control." The definition of relative as contained in § 310.102, means "father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister." In today's environment students, in addition to being sons and daughters, are also husbands, wives, mothers, fathers, etc., and are adequately covered under Part 310.

In addition, students are referred to Federal agencies for work assignments by the educational institution based on their academic standing and eligibility in the school's Co-op program. Sufficient controls, built into the referral process, along with existing "Employment of Relatives" restrictions, will ensure against the hiring of relatives over which a public official has control or jurisdiction. Agencies will have the flexibility to apply any additional controls they feel are necessary.

Proposed Amendments: The proposed regulations will: (1) revise § 213.3102(q)(2)(ii), Schedule A authority, deleting references to Co-op students; (2) revise Schedule B authority, § 213.3202(e) to include all high school Co-op students for noncompetitive

conversion, instead of only the positions in skilled trades and craft occupations; (3) add a new Schedule B authority as § 213.3202(g) for noncompetitive conversion of Federal Co-op students earning undergraduate certificates in an accredited college, technical, trade, vocational, or business school; and (4) remove restrictions on sons and daughters in §§ 213.3201(b) and 338.202(d) with the understanding that restrictions under "Employment of Relatives" regulations in § 310.103 (a), (b), and (c) will prevail, along with any additional controls an agency may feel are necessary.

Because of shortages of quality and quantities of candidates available through student employment recruiting sources and the inability to meet agency staffing needs, it was determined that these regulations were needed to meet Federal work force demands. Appointments will be permitted under both of the new appointing authorities by any Federal agency without prior OPM approval. OPM will monitor use of these special appointing authorities through the Central Personnel Data File (CPDF) reports.

Executive Order 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of Executive Order (E.O.) 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation applies only to appointment procedures for certain employees in Federal agencies.

List of Subjects

5 CFR Part 213

Government employees.

5 CFR Part 338

Government employees, Nepotism, Aged.

Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM proposes to amend 5 CFR Parts 213 and 338 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for Part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; Section 213.101 also issued under 5 U.S.C. 2103; Section 213.102 also issued under 5 U.S.C. 1104, Pub. L. 95-454, sec. 3(5); Section

213.3102 also issued under 5 U.S.C. 3301, 3302 (E.O. 12364, 47 FR 22931), 3307, 8337(h) and 8457.

2. In § 213.3102(q), the fourth sentence is revised and the fifth sentence is removed to read as follows:

§ 213.3102 Entire executive civil service.

(q) * * * No one shall be employed under this provision in routine clerical positions, routine trades and labor positions—unless such employment clearly relates to a scientific, professional, or technical curriculum—or in excess of 1040 working hours a year.

3. In § 213.3201, paragraph (b) is removed and reserved.

§ 213.3201 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.

(b) [Reserved]

4. In § 213.3202, paragraph (e) is revised and paragraph (g) is added to read as follows:

§ 213.3202 Entire executive civil service.

(e) Student positions established in support of the Cooperative Education (vocational education) Program for high school students which provide for scheduled periods of classroom study combined with at least 16 weeks or 640 hours of study-related work in a Federal agency. The periods of study and work must satisfy requirements for a high school diploma and provide experience necessary for career or career-conditional appointment into clerical, administrative support, technician, helper and preapprentice occupations of the Federal career service upon the students' graduation.

(g) Student positions established in support of the Cooperative Education Program in which the student is enrolled in an undergraduate certificate program in an accredited college, technical, trade, vocational, or business school which provide for scheduled periods of classroom study combined with at least 16 weeks or 640 hours of study-related work in a Federal agency. The periods of study and work must satisfy requirements for an undergraduate certificate and provide experience for career or career-conditional appointment into clerical, administrative support, technician, helper and preapprentice occupations of the Federal career service upon the students' graduation.

PART 338—QUALIFICATION REQUIREMENTS (GENERAL)

5. The authority citation for Part 338 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954-1958 Comp., p. 218.

6. In § 338.202, paragraph (d) is removed and revised.

§ 338.202 Restriction on sons and daughters.

(d) [Reserved]

[FR Doc. 88-1248 Filed 1-21-88; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Notice of Proposed Suspension of a Certain Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of a rule.

SUMMARY: This notice invites written comments on a proposal to suspend for the months of February-July 1988 a portion of the "producer" definition of the Southwest Plains order. Such provision was suspended for the months of April-July 1987. The provision proposed for suspension prevents dairy farmers from being considered producers under the order during the months of February-July if they have not sufficiently supplied the market during the previous fall months when fluid milk needs are seasonally greater. The suspension was requested by Southern Milk Sales, Inc. (SMS), a cooperative association that represents producers who supply milk for the Southwest Plains market. SMS contends that the action is necessary to permit the efficient use of advantageously located supplies of milk in supplying the fluid milk needs of the market's bottling plants.

DATE: Comments are due on or before January 29, 1988.

ADDRESS: Comments (two copies) should be filed with USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: John F. Borovics, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South

Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 447-2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers by promoting hauling efficiencies and would tend to ensure that dairy farmers who supply the market's fluid milk needs would have their milk priced under the order and thereby receive the benefits that accrue from such pricing. This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the suspension of the following provision of the order regulating the handling of milk in the Southwest Plains marketing area is being considered for the months of February-July 1988:

In § 1106.12, paragraph (b)(5) in its entirety.

All persons who want to send written data, views or arguments about the proposal should send two copies of them to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the *Federal Register*. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include February in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

Southern Milk Sales, Inc. (SMS), a cooperative association that represents dairy farmers who supply milk to the Southwest Plains market, has requested that a portion of the producer definition be suspended for 1988. The provision proposed for suspension prevents dairy farmers from being considered producers under the order during months when supplies are abundant if they have not sufficiently supplied the

market during previous fall months when fluid milk needs are seasonally greater. Specifically, the order provides that a dairy farmer cannot be a producer under the Southwest Plains order during the months of February-July unless during each of the immediately preceding months of September-November more than two-thirds of the producer's milk was pooled and priced under the order. This provision was suspended for the months of April-July 1987.

SMS states that the proposed suspension is warranted because of changes in marketing conditions under this and other Federal orders. Proponent contends that this provision would, in some cases, not permit the cooperative and other market suppliers to ship the milk of the most advantageously located producers in supplying the fluid milk needs of the market's distributing plants and therefore should be suspended for 1988.

SMS states that the shortage of milk for fluid uses in Federal order markets to the south during the fall of 1987 resulted in a considerable amount of the cooperative's milk that is normally associated with the Southwest Plains market being regulated under orders covering Texas, Louisiana and more-distant markets in the Southwest. Hence, these producers did not establish the required prior association with the Southwest Plains market during September-November 1987 to be considered producers under such order for the months of February-July 1988.

In addition, SMS contends that the whole-herd buyout program has affected the overall milk supply arrangements under the involved orders. SMS states that such program has necessitated a general restructuring of hauling routes as market suppliers under the Southwest Plains order have attempted to fulfill their supply commitments efficiently by moving the milk from the farms of the most advantageously located producers.

SMS asked that the provision be suspended for 1988. However, since the provision is applicable only during February through July, comments are invited on a proposal to suspend the provision for such months of 1988.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1106 continues to read as follows:

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

Signed at Washington, DC, on: January 19, 1988.

J. Patrick Boyle,
Administrator.

[FR Doc. 88-1320 Filed 1-21-88; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 232, 233, 235, 237, 238, 239, 280, and 299

[INS Number: 1037-88]

Immigration User Fee, Conforming Amendments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to set forth conforming amendments to existing regulations. These provisions relate to the Department of Justice Appropriation Act, 1987, concerning the collection and remittance of the Immigration User Fee.

The proposed rule addresses the change from carrier responsibility to INS responsibility for the custody and detention of excludable aliens. The rule would also amend present regulations to conform to statutory deletions and amendments.

DATES: Written comments must be received by March 22, 1988.

ADDRESS: Please submit written comments, in triplicate, to Director, Policy Directives and Instructions, Immigration and Naturalization Service, Room 2011, 425 I Street NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Charles S. Thomason, Jr., Systems Accountant, Finance Branch, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-4705.

SUPPLEMENTARY INFORMATION: Section 101(b) Subsection 205 of the Department of Justice Appropriation Act, 19897 (Pub. L. 99-591) establishes the collection, payment, and remittance of a specific user fee (fee) for the immigration inspection or preinspection of passengers (with certain exceptions) arriving in the United States (U.S.) aboard commercial aircraft or commercial vessels. Subsection 206 of Pub. L. 99-591 places the responsibility for physical custody of excludable aliens pursuant to former section 233 of the Immigration and Nationality Act of

1952, as amended (the "Act"), on the INS.

8 CFR 232.1 is amended to eliminate the language requiring detention on board the vessel or aircraft at the expense of the carrier.

8 CFR 233.1 is deleted pursuant to the repeal of section 233 of the Act.

8 CFR 235.3 is amended to address conditions of INS responsibility for custody and to incorporate a new form, I-259C, which will be used for the purpose of notifying the agent of the carrier that a passenger may be excludable and, if subsequently ordered excluded and deported, the carrier will be responsible for providing detention and transportation to the last foreign port of embarkation.

8 CFR 235.5(c) is deleted as it has been superceded by section 286(h)(2)(A) of the Act.

8 CFR 237.4 is amended by deleting the reference to section 233 of the Act, which has been repealed.

8 CFR 237.5 is amended to provide for carrier responsibility for costs associated with a failure to comply with the provisions of section 237 of the Act.

8 CFR 237.6 is amended by adding a definition for "next available flight".

8 CFR 238 is amended by adding a new paragraph (c) for the purpose of clarifying that the responsibilities of the carrier for transit without visa (TWOV) passengers remains unchanged by the enactment of section 286 of the Act.

8 CFR 239.2 is amended by deleting paragraph (b), the provisions of which have been superceded by section 286 (g) of the Act.

8 CFR 280.6 is amended by deleting the reference to section 233 of the Act, which has been repealed.

8 CFR 280.52 has been added to provide for deposit of fines assessed pursuant to sections 271 (a) and 273 of the Act into the Immigration User Fee Account.

8 CFR 299.1 has been amended to add the new form I-259C as set forth in § 235.3.

In compliance with 5 U.S.C. 605b, the Commissioner of INS certifies that the rule would not have a significant economic impact on a substantial number of small entities. This rule would not be a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects

8 CFR Parts 232 and 233

Aliens, Immigration, Security measures, Aircraft, Vessels

8 CFR Parts 235

Aliens, Immigration, Security measures, Aircraft, Vessels, Travel and transportation expenses

8 CFR Parts 237 and 238

Aliens, Immigration, Security measures, Aircraft, Vessels, Travel and transportation expenses, Transportation

8 CFR Parts 239

Aliens, Immigration, Security measures, Aircraft

8 CFR Parts 280 and 299

Aliens, Immigration, Aircraft, Vessels, Accounting, Reporting and recordkeeping requirements

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

PART 232—DETENTION FOR EXAMINATION TO DETERMINE MENTAL OR PHYSICAL DEFECTS

1. The authority citation for Part 232 is revised to read as follows:

Authority: 8 U.S.C. 1103 and 1222.

2. Section 232.1 is revised to read as follows:

§ 232.1 Detention.

When a district director has reasonable grounds for believing that persons arriving in the United States should be detained for reasons specified in section 232 of the Act, he/she shall, after consultation with the United States Public Health Service at the port of entry, notify the master or agent of the arriving vessel or aircraft of his/her intention to effect such detention by serving on the master or agent the Form I-259C in accordance with § 235.3(e) of this Chapter.

PART 233—[REMOVED AND RESERVED]

3. Part 233 would be removed and reserved.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

4. The authority citation for Part 235 is revised to read as follows and all other authority citations which appear in Part 235 are removed:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, and 1252.

5. In § 235.3(a) is amended by adding at the end of the existing text a new sentence to read as set forth below; by revising (d) and adding new paragraphs (e) and (f) to read as follows:

§ 235.3 Detention and deferred inspection.

(a) * * * The Service will not be liable for any expenses of a passenger who has not been presented for inspection and for whom a determination has not been made concerning admissibility by a Service officer.

(d) *Service custody.* The Service will assume custody of any alien subject to detention under § 235.3(b) or (c) of this section.

(e) *Notice to carriers.* If in the opinion of the examining immigration officer, it is not practical to resolve a question of admissibility at the time of arrival of an alien passenger on a vessel or aircraft, the officer shall execute a Form I-259C to notify the agent, master, or commanding officer of the vessel or aircraft, if applicable, that the alien passenger may be excludable from the United States and in the event the alien is formally ordered excluded and deported, the carrier will be responsible for providing detention and transportation to the last foreign port of embarkation as provided in § 237.5 of this chapter.

(f) *Detention in Non-Service facility.* Whenever an alien is placed in Service custody at other than a Service Processing Center, the public or private entities contracted to oversee detention shall adhere to the Service's minimum standards for a non-Service operation detention facility.

§ 235.5 [Amended]

6. Section 235.5 *Preinspection*, is amended by removing the entire paragraph (c).

PART 237—DEPORTATION OF EXCLUDED ALIENS

7. The authority citation for Part 237 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1223, 1227, 1255, and 1330.

§ 237.4 [Amended]

8. Section 237.4 *Imposition of penalty* is amended by removing the words "sections 233 and", and inserting the word "section." * * *

9. Section 237.5 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 237.5 Notice to transportation line of alien's exclusion.

(b) Failure of the carrier to accept for removal an alien who has been ordered excluded and deported shall result in the carrier being assessed any costs

incurred by the Service for detention after the carrier's failure to accept the alien for removal including the cost of any transportation. The User Fee Account shall not be assessed for expenses incurred because of the carrier's violation of the provisions of section 237 of the Immigration and Nationality Act and this paragraph (b).

10. Section 237.6 is amended by adding a new paragraph (a)(5) to read as follows:

§ 237.6 **Deportation.**

(a) * * *

(5) Next available flight—is to be the carrier's next regularly scheduled departure to the alien's point of embarkation regardless of seat availability.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

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

Authority: 8 U.S.C. 1103 and 1228.

12. Section 238.3 is amended by adding a new paragraph (c) to read as follows:

§ 238.3 **Aliens in immediate and continuous transit.**

(c) *Carrier responsibility.* Nothing contained with the provisions of section 286 of the Act shall be deemed to waive the carrier's liability for detention, transportation, and other expenses incurred in the bringing of aliens to the United States under the terms of this section.

PART 239—SPECIAL PROVISIONS RELATING TO AIRCRAFT: DESIGNATION OF PORTS OF ENTRY FOR ALIENS ARRIVING BY CIVIL AIRCRAFT

13. The authority citation for Part 239 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1221, and 1229.

§ 239.2 [Amended]

14. Section 239.2 *Landing requirements* is amended by removing paragraph (b) and by redesignating paragraphs (c), (d), and (e) as (b), (c), and (d).

PART 280—IMPOSITION AND COLLECTION OF FINES

15. The authority citation for Part 280 is revised to read as follows and all other authority citations which appear in Part 280 are removed:

Authority: 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, and 1330.

§ 280.6 [Amended]

16. Section 280.6 *Bond to obtain clearance form* is amended by removing the reference to Section "233."

17. A new § 280.52 is added to read as follows:

§ 280.52 **Payment of fines.**

(a) *Procedure.* All fines assessed pursuant to section 271(a) of the Act shall be made payable to the Immigration User Fee Account in accordance with the provisions of § 286.6 of this Chapter.

(b) *Deposit to the Immigration User Fee Account.* All fines assessed pursuant to section 271(a) of the Act and all penalties paid to the collector of customs pursuant to section 273 of the Act shall be remitted to the Immigration user Fee Account.

PART 299—IMMIGRATION FORMS

18. The authority citation for Part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 8 CFR Part 2.

19. Section 299.1 is amended by adding, in proper numerical sequence, new Form I-259C as follows:

§ 299.1 **Prescribed forms.**

I-259C (7-1-87) Notice to Carrier.

Dated: December 31, 1987.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 88-1205 Filed 1-21-88; 8:45 am]

BILLING CODE 4410-10-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 300

[Release No. SIPA-141; File No. SIPC 87-1]

Rules of the Securities Investor Protection Corporation

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: Securities Investor Protection Corporation's (SIPC) proposed rule change establishes a uniform procedure for the satisfaction of claims for cash and claims for securities in a liquidation proceeding under the Securities Investor Protection Act of 1970. The Commission is publishing the proposed rule change for public comment. Within thirty-five days of publication of notice, the

Commission must (absent an extension) by order approve the proposed rule change or institute disapproval proceedings. Because SIPC rules approved by the Commission have the force and effect as if promulgated by the Commission, those rules are published in title 17 of the Code of Federal Regulations.

DATE: Comments must be received on or before February 12, 1988.

ADDRESS: Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file three copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the SIPC submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will be available for inspection and copying at the principal office of SIPC. All submissions should refer to File No. 87-1.

FOR FURTHER INFORMATION CONTACT: Harry Melamed, Division of Market Regulation (202/272-2412), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: Pursuant to section 3(e)(2)(A) of the Securities Investor Protection Act of 1970, 15 U.S.C. 78ccc(e)(2)(A), notice is hereby given that on September 23, 1987 as amended on November 16, 1987, the Securities Investor Protection Corporation filed with the Securities and Exchange Commission a proposed rule change as described below, which description has been prepared by the Securities Investor Protection Corporation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SIPC's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SIPC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

rule change. SIPC's Statements in this regard are as follows:

The purpose of the proposed rule change is to establish a uniform procedure for the satisfaction of claims for cash and claims for securities in either a liquidation proceeding pursuant to the Securities Investor Protection Act of 1970 as amended ("SIPA"), or a direct payment procedure pursuant to section 10 of SIPA.

SIPC is authorized to adopt rules relating to procedures for the liquidation of SIPC members and for direct payment procedures, including the transfer of customer accounts, the distribution of customer property, and the advance and payment of SIPC funds, under SIPA section 3(b)(4)(B), 15 U.S.C. 78ccc(b)(4)(B). SIPC is also authorized, pursuant to SIPA section 3(b)(4)(A), 15 U.S.C. 78ccc(b)(4)(A), to adopt rules relating to the definition of terms used in SIPA, unless those terms are defined in SIPA section 16, 15 U.S.C. 78lll. The Proposed Rules may be adopted pursuant to either or both of these SIPA sections relating to rulemaking authority.

SIPC and trustees appointed under SIPA have frequently litigated questions concerning whether a customer with a claim in a SIPA proceeding is entitled to a "claim for cash" or a "claim for securities." See *In re Weis Securities, Inc.*; *Gans v. Reddington*, CCH Fed. Sec. L. Rep. ¶ 94,780, p. 96,576 (S.D.N.Y. 1974); *SIPC, SEC v. Morgan, Kennedy & Co., Inc.*, 3 B.C.D. 15 (S.D.N.Y. 1977); *In re June S. Jones Co.*, 52 B.R. 810 (Bkrtcy. D. Oregon, 1985); *In re Bell & Beckwith; Murray v. McGraw*, 821 F.2d 333 (6th Cir. 1987). In each instance, SIPC has successfully proposed that a customer be satisfied based upon the customer's legitimate expectation of what the customer had in his or her account at the time of the demise of the SIPC member firm. One of the goals of SIPA is to allow a trustee to "purchase securities as necessary for the delivery of securities to customers in satisfaction of their claims for net equities based on securities," where it is possible for the trustee to do so in a fair and orderly market. See SIPA section 8(d); 15 U.S.C. 78fff-2(d). This permits the trustee to fulfill one of the enumerated duties of a trustee under SIPA to "deliver securities to or on behalf of customers to the maximum extent practicable in satisfaction of customer claims for securities of the same class and series of an issuer" under SIPA section 7(b)(1), 15 U.S.C. § fff-1(b)(1).

Customers have sometimes objected to having their claim deemed a "claim for cash", particularly when, as a claim for cash, the claim exceeds the

maximum amount SIPC may advance to a trustee to satisfy a claim for cash. That limit is currently \$100,000, while the limit on a claim for securities is \$500,000. See SIPA section 9(a)(1), 15 U.S.C. 78fff-3(a)(1). Conversely, customers have sometimes objected to having their claims treated as a "claim for securities" when the underlying value of the security in question has declined.

SIPC believes that the Proposed Rules submitted herewith will provide both nationwide uniformity and reasonable certainty for customers as to how their claims will be treated in the event of the failure of a SIPC member, and will provide an objective standard for determining each claimant's legitimate expectations. The Proposed Rules are in complete accord with all final judicial decisions on this subject, including cases decided prior to SIPA's enactment. See cases, *supra*; see also, *Tepper v. Chichester*, 285 F.2d 309 (9th Cir. 1960); *In re Stanley B. Young & Co.*, 33 F. Supp. 444 (W.D. Ky., 1940).

The Proposed Rules also give full effect to the Congressional intent to "satisfy the customers' legitimate expectations" and "restore the customer to his position prior to the broker-dealer's financial difficulties." S. Rep. No. 763, 95th Cong., 2d Sess. 2, 3 U.S. Code Cong. & Admin. News, 95th Cong., 2d Sess., at 765 (1987). Indeed, the results reached under the Proposed Rules will affirmatively effectuate the Commission's previously stated view on this subject. In 1978, during hearings on extensive amendments to SIPA, Commissioner Philip A. Loomis stated that "[w]hen a customer sells securities, his claim from that time until settlement and delivery of the funds is a claim for cash." Hearings Before the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. 233 (1977), emphasis supplied. Commissioner Loomis was presenting the views of the Commission. *Id.* at 227. This is the precise result which the Proposed Rules will reach.

In an effort to reach a different result, customers seeking to disavow securities purchased for their account have sometimes argued that a purchase of securities for their accounts has not occurred until their broker has actually delivered cash to a "contra" broker and the "contra" broker has, in turn, actually delivered the securities to their broker. Similarly, customers seeking to disavow a sale of securities have sometimes argued that a sale for their accounts has not occurred until their broker has actually delivered the securities to a "contra" broker and the "contra" broker has in turn delivered cash to their

broker. Courts have invariably rejected this argument based upon an analysis of the Uniform Commercial Code. Thus, sections 8-301 and 8-314(a) of the Uniform Commercial Code, as enacted in most states, hold that a customer selling securities loses his rights to those securities simply by delivering the securities to his or her broker.

At two places [Rule 501(a)(2) and Rule 502(b)(2)] the Proposed Rules use the phrase "completed or executory contract for sale for or purchase from the account". At two other places [Rule 501(b)(2) and Rule 502(a)(2)] the Proposed Rules use the phrase "completed or executory contract for purchase for or sale to the account." These phrases are designed to have the Proposed Rules cover any authorized purchase or sale of securities. The Proposed Rules thus apply in situations where the Debtor is acting as either agent or principal. The Proposed Rules also apply whether or not the purchase or sale transaction has been completed as between the Debtor acting as agent and any "contra" broker. Thus, for example the selling customer is entitled only to the contract price, regardless of the fact that, as between the customer's broker and another broker, the agreement for the sale is "executory," that is, not yet complete. The Proposed Rules are thus in complete harmony with the results which would obtain under the Uniform Commercial Code.

The Proposed Rules will apply to Standardized Options transactions (as well as other securities transactions) but are not intended to affect the satisfaction of customer claims for such options as provided in SIPC's Series 400 Rules, 17 CFR 300.400.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register*, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SIPC consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

To allow public access to SIPC's rules, SIPC rules that are approved by the Commission are published under Part 300 of 17 CFR Chapter II.

List of Subjects in 17 CFR Part 300

Brokers, Securities, Securities Investor Protection Corporation.

III. Text of Proposals

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 300—RULES OF THE SECURITIES INVESTOR PROTECTION CORPORATION

1. The authority citation for Part 300 continues to read as follows:

Authority: Sec. 3, 84 Stat. 1636, as amended; 15 U.S.C. 78ccc.

2. By adding §§ 300.500—300.503 as follows:

Rules Relating to Satisfaction of a "Claim for Cash" or a "Claim for Securities"

Sec.	
300.500	General.
300.501	Claim for cash.
300.502	Claim for securities.
300.503	Voidable securities transactions.

Rules Relating to Satisfaction of a "Claim for Cash" or a "Claim for Securities"**§ 300.500 General.**

These rules will be applied in determining whether a securities transaction gives rise to a "claim for cash" or a "claim for securities" on the filing date of either a liquidation proceeding pursuant to the Securities Investor Protection Act (hereinafter referred to as "the Act") or a direct payment procedure pursuant to section 10 of the Act.

§ 300.501 Claim for cash.

(a) Where a SIPC member ("Debtor") held securities in an account for a customer, the customer has a "claim for cash" with respect to any authorized securities sale:

(1) If the Debtor has sent written confirmation to the customer that the securities in question have been sold for or purchased from the customer's account; or

(2) Whether or not such a written confirmation has been sent, if the securities in question have become the subject of a completed or executory contract for sale for or purchase from the account.

(b) Where the Debtor held cash in an account for a customer, the customer has a "claim for cash", notwithstanding the fact that the customer has ordered the securities purchased for the account, unless:

(1) The Debtor has sent written confirmation to the customer that the securities in question have been purchased for or sold to the customer's account; or

(2) Whether or not such a written confirmation has been sent, if the securities in question have become the subject of a completed or executory contract for purchase for or sale to the account.

§ 300.502 Claim for securities.

(a) Where the Debtor held cash in an account for a customer, the customer has a "claim for securities" with respect to any authorized securities purchase:

(1) If the Debtor has sent written confirmation to the customer that the securities in question have been purchased for or sold to the customer's account; or

(2) Whether or not such a written confirmation has been sent, if the securities in question have become the subject of a completed or executory contract for purchase for or sale to the account.

(b) Where the Debtor held securities in an account for a customer, the customer has a "claim for securities", notwithstanding the fact that the customer has ordered securities sold for the account, unless:

(1) The Debtor has sent written confirmation to the customer that the securities in question have been sold for or purchased from the customer's account; or

(2) Whether or not written confirmation of the purchase has been sent, if the securities in question have become the subject of a completed or executory contract for sale for or purchase from the account.

§ 300.503 Voidable securities transactions.

(a) Nothing in these Series 500 Rules (§§ 300.500 through 300.503) shall be construed as limiting the rights of a trustee in a liquidation proceeding under the Act to avoid any securities transaction as fraudulent, preferential, or otherwise voidable under applicable law.

(b) Nothing in these Series 500 Rules (§§ 300.500 through 300.503) shall be construed as limiting the right of the Securities Investor Protection Corporation, in a direct payment procedure under section 10 of the Act, to reject a claim for cash or a claim for securities if such claim arose out of a securities transaction which could have been avoided in a liquidation proceeding under the Act.

By the Commission.

Shirley E. Hollis,
Assistant Secretary.

January 19, 1988.

[FR Doc. 88-1323 Filed 1-21-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 102**

[Docket No. 80N-0140]

Diluted Fruit or Vegetable Juice Beverages Other Than Diluted Orange Juice Beverages; Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the period for submitting comments on its proposal to revoke the common or usual name regulation for diluted fruit or vegetable juice beverages other than diluted orange juice beverages (21 CFR 102.33). FDA is reopening the comment period based on a request for extension from the Center for Science in the Public Interest (CSPI).

DATES: Written comments by January 27, 1988.

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

FOR FURTHER INFORMATION CONTACT: Terry Troxell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0229.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 25, 1987 (52 FR 36046), FDA granted a 90-day extension of the comment period on the proposal to revoke the regulation establishing the common or usual name for diluted fruit or vegetable juice beverages other than diluted orange juice beverages (21 CFR 102.33) that the agency published in the Federal Register of July 16, 1987 (52 FR 26690). The July 16, 1987, proposed action also withdrew the proposed amendment published in the Federal Register of June 1, 1984 (49 FR 22831), which among other things, would exempt cranberry juice products from percentage ingredient labeling requirements. The September 25, 1987, notice provided until December 13, 1987, for interested persons to submit written comments on the July 16, 1987, proposal.

The CSPI now has submitted a request for an additional 90-day extension of the comment period based on the need for additional time to systematically obtain and compile data regarding consumer awareness of the

juice content of diluted juice beverages. The agency has also received comments from several members of the U.S. Senate requesting that the comment period not be extended further. The agency has considered both viewpoints and believes that the data being obtained by CSPI are relevant to the evaluation of the proposal but that an additional 45 days beyond December 13, 1987, the current closing date for comments, should be sufficient. Accordingly, the agency is reopening the comment period for that additional length of time.

Interested persons may, on or before January 27, 1988, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 20, 1988.

Ronald G. Chesemore,

Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 88-1355 Filed 1-20-88; 12:33 pm]

BILLING CODE 4160-01-M

21 CFR Part 201

[Docket No. 87N-0371]

Labeling for Oral and Rectal Over-the-Counter Aspirin and Aspirin-Containing Drug Products; Reye Syndrome Warning

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the regulations that require the labeling of oral and rectal over-the-counter preparations containing aspirin to bear a Reye syndrome warning by deleting the provision that the regulation shall expire on June 6, 1988, unless extended by FDA. The agency is proposing that this labeling provision be made permanent. This action is based on the results of a study by the Public Health Service Reye Syndrome Task Force and the report of the Institute of Medicine's Committee on Reye Syndrome and Medication Use which confirm the association between Reye syndrome and the ingestion of aspirin and aspirin-containing drug products.

DATE: Comments by March 22, 1988.

ADDRESS: Written comments to the Docket Management Branch (HFA-305),

Food and Drug Administration, 5600 Fishers Lane, Room 4-62, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Howard P. Muller, Center for Drug Evaluation and Research (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 17, 1985 (50 FR 51400), FDA proposed to require that the labeling of oral over-the-counter (OTC) aspirin and aspirin-containing drug products for human use bear a warning that such products should not be used to treat chicken pox or flu symptoms in children and teenagers before consulting a doctor about Reye syndrome. FDA proposed this rule in order to bring uniformity and consistency to the labeling of aspirin and aspirin-containing products in the marketplace and to aid in increasing the public awareness of the apparent association between the use of aspirin and Reye syndrome.

In the December 17, 1985, proposal, FDA described the scientific studies that had been conducted to examine the possible association between the use of aspirin and the occurrence of Reye syndrome. The agency noted that the Public Health Service (PHS) planned further research into the possible association between Reye syndrome and various exposure factors, including the use of aspirin.

The main PHS study, conducted under the direction of the PHS Reye Syndrome Task Force from 1984 to 1986, was preceded by a pilot phase (methodology study) to determine the study feasibility and to establish the appropriate methodology for a full-scale investigation. The methodology study, which is summarized in the December 17, 1985, proposal (50 FR 51401), reported an association between the use of aspirin and the occurrence of Reye syndrome in children and teenagers.

In the Federal Register of March 7, 1986 (51 FR 8180), FDA published a final regulation requiring the following labeling statement on orally or rectally administered OTC aspirin and aspirin-containing drug products: "WARNING: Children and teenagers should not use this medicine for chicken pox or flu symptoms before a doctor is consulted about Reye syndrome, a rare but serious illness."

In addition to certain other provisions, the final rule required that this warning precede any additional warnings that may appear on the product labeling in order to assure the prominence of the message.

The final rule also included the provision that the regulation would expire 2 years from the effective date unless the agency acted to extend it. This 2-year period was to allow completion and evaluation of the PHS main study noted above.

The PHS main study has now been completed. The study results provide convincing evidence of a strong association between Reye syndrome and the ingestion of aspirin. The PHS report, entitled "Reye Syndrome and Medications—Report of the Main Study," was prepared by the PHS Reye Syndrome Task Force and is dated November 12, 1986 (Ref. 1). The PHS report was evaluated by the Institute of Medicine (IOM) of the National Academy of Sciences in a separate report dated February 1987, and entitled "This PHS Study of the Reye Syndrome: Review of a Continuing Study—Report Number 6—Review of the PHS Continuing Study by the Committee on the Reye Syndrome and Medications." (Ref. 2) A report of the main PHS study was published in the *Journal of the American Medical Association* on April 10, 1987 (Ref. 3). These reports have been placed on display with the Dockets Management Branch (address above) under Docket No. 87N-0371. Additional background information may be found in Docket Nos. 82N-0158 and 85N-0553.

The PHS study findings reported a large, statistically significant association between Reye syndrome and the ingestion of aspirin during previous illnesses. The study concluded that the association between Reye syndrome and aspirin is consistent with estimates of risk determined in earlier studies and reflects the strength of the epidemiologic association observed in those studies. The study reinforced the importance of reducing the use of aspirin in the treatment of children and teenagers with chicken pox and flu-like illness.

Because of the evidence developed from the PHS study and the evaluation of that study by the IOM of the National Academy of Sciences, FDA proposed that the warning statement in the labeling of orally or rectally administered OTC aspirin and aspirin-containing drug products be a permanent requirement. The available evidence supports the continuing need to maintain a high level of public awareness of the association between the use of aspirin in children and teenagers and the incidence of Reye syndrome; continuation of the requirement for the warning in the labeling of over-the-counter aspirin and aspirin-containing drug products will contribute to this goal. Therefore, the

agency is proposing to amend § 201.314 of the regulations (21 CFR 201.314) by removing paragraph (h)(5), thereby removing the expiration date of the labeling requirement.

The agency is aware that some interested individual may have questions about the precise wording of the warning statement or other aspects of the rule (Ref. 4). The agency believes that it is of the utmost importance that there be no time gap in requiring a Reye syndrome warning statement on aspirin and aspirin containing products. This proposal, therefore, is focused on extending the current warning statement. The agency will, of course, consider comments on related issues as part of the rulemaking process.

Economic Impact

FDA has examined the regulatory impact and regulatory flexibility implications of the proposed rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act. The proposal would simply require the continued use of labeling already prepared under the March 1986 final rule. Thus, no additional costs associated with labeling changes would result from this proposed rule. Therefore, the agency has determined that the proposed rule is not a major rule as defined in Executive Order 12291. Further, FDA certifies that the proposed rule will not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(11) 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.

References

The following information has been placed in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

(1) "Reye Syndrome and Medications—Report of the Main Study," Public Health Service Reye Syndrome Task Force, November 12, 1986.

(2) "The PHS Study of the Reye Syndrome: Review of a Continuing Study—Report Number 6—Review of the PHS Continuing Study by the Committee on the Reye Syndrome and Medications," Institute of Medicine of the National Academy of Sciences February 1987.

(3) Hurwitz, E.S., et al., "Public Health Service Study of Reye's Syndrome and Medications, Report of the Main Study," *Journal of the American Medical Association*, 257(14):1905-1911, 1987.

(4) Letter from Richard M. Narkewicz, President, American Academy of Pediatrics, to Frank E. Young, Commissioner, FDA, dated November 13, 1987.

Comments

Interested persons may, on or before March 22, 1988, submit to the Docket Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 201

Drugs, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act, it is proposed that Part 201 be amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR Part 201 continues to read as follows:

Authority: Secs. 501, 502, 701, 52 Stat. 1049-1051 as amended (21 U.S.C. 351, 352, 371); 5 CFR 5.10; § 201.21 also issued under secs. 301, 505, 52 Stat. 1042-1043 as amended, 1052-1053 as amended (21 U.S.C. 331, 355).

§ 201.314 [Amended]

2. Section 201.314 *Labeling of drug preparations containing salicylates* is amended by removing paragraph (h)(5).

Dated: December 16, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 88-1200 Filed 1-21-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

Land Acquisitions

January 6, 1988

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: On Tuesday, June 23, 1987, the Bureau of Indian Affairs published a proposed rule in the *Federal Register* (52 FR 23560) concerning the acquisition in trust status of lands located outside the boundaries of Indian reservations. The

proposed rule would have amended 25 CFR Part 151, Land Acquisitions, by adding a new section (c) to 25 CFR 151.3. The new rule would have had the effect of prohibiting all acquisitions of off-reservation lands in trust status for Indian tribes and individuals if the proposed purpose of the acquisition was to establish a bingo operation or gaming enterprise.

A public comment period on the rule was given from June 23 to August 7, 1987. In general, comments received were overwhelmingly in opposition to the rule. A total of 30 responses were received, 25 from various Indian tribes and tribal attorneys who felt that such a regulation would be an "unwarranted constraint on economic development" and would be in direct contravention of the Federal policy of self-determination and self-sufficiency through economic development.

Additional concerns expressed by the tribes were that such a provision would be "overregulation" and, in light of future budget reductions, the Bureau would be depriving tribes of a legitimate economic enterprise. Of the five remaining responses which supported the proposed provision, three were from various horse racing associations, one from county officials in California, and the fifth from the Law Enforcement Branch of the Bureau of Indian Affairs' Billings Area Office.

Upon reconsideration, the Assistant Secretary finds that the proposed rule is not warranted at this time and hereby formally withdraws the rulemaking action. The Assistant Secretary further finds that, in unique instances, a bingo enterprise, even though established on trust land outside the reservation boundaries, may be essential to the economic well being of a tribe which has a very limited natural or financial resource base. Off-reservation land acquisition requests for bingo enterprises will continue to be considered on a case-by-case basis pursuant to the existing guidelines found in 25 CFR Part 151.

This notice of proposed rule withdrawal is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

EFFECTIVE DATE: The effective date of withdrawal is January 22, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Maytubby on (202) 343-3837; U.S. Department of the Interior, Bureau of Indian Affairs, Division of Real Estate Services, Room 4520—Main Interior, 18th & C Streets NW., Washington, DC 20240, or Mr. Michael Cox on (202)

343-9331; U.S. Department of the Interior, Office of the Solicitor, Room 6554—Main Interior, 18th & C Streets NW., Washington, DC 20240.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 88-1258 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Administration

29 CFR Part 2550

Loans to Plan Participants and Beneficiaries Who Are Parties in Interest With Respect to the Plan

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation under the Employee Retirement Income Security Act of 1974 (the Act) relating to loans to plan participants and beneficiaries who are parties in interest with respect to the plan. The proposed regulation is intended to clarify the scope of section 408(b)(1) of the Act, and to define certain terms used therein. Section 408(b)(1) provides an exemption from certain prohibitions of section 406 of the Act for loans to plan participants and beneficiaries. If adopted, the regulation will affect employee benefit plans, their sponsors and fiduciaries, and participants and beneficiaries engaging in such loan transactions.

DATE: Written comments and requests for a public hearing concerning the proposed regulation must be received by March 22, 1988.

EFFECTIVE DATE: The regulation, if adopted, generally will be effective January 1, 1975. Paragraph (d)(2) of the regulation relating to specific plan provisions would be effective for participant loans granted or renewed on or after the last day of the first plan year beginning on or after January 1, 1989.

ADDRESSES: All written comments and requests for a hearing (preferably at least three copies) should be sent to: Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. *Attention:* Participant Loans. All submissions will be available for public inspection in the Public Documents Room of Pension and

Welfare Benefits Administration, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Susan Rees, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523-9141; or Katherine D. Lewis, Office of Regulations and Interpretations, U.S. Department of Labor, (202) 523-8671. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This document contains a proposed regulation which provides guidance on the scope of the statutory exemption under section 408(b)(1) of the act. The Department's reasons for using the proposed regulation are set forth below, followed by a discussion of the provisions of the proposal.

A. Background

Section 406(a) of the Act generally prohibits a fiduciary¹ with respect to an employee benefit plan from causing the plan to engage in certain types of transactions with a party in interest.² Specifically, section 406(a)(1)(B) prohibits a fiduciary with respect to a plan from causing the plan to engage in the direct or indirect lending of money or other extension of credit with a party in interest. In addition, section 406(b) of the act generally prohibits a fiduciary with respect to a plan from engaging in transactions in which the fiduciary has a conflict of interest. All of these prohibitions apply in the absence of either a statutory or administrative exemption.

One such statutory exemption is contained in section 408(b)(1) of the Act. Section 408(b)(1) states that the prohibitions contained in section 406 of the act shall not apply to any loans made by a plan to parties in interest who are participants and beneficiaries of the plan if such loans (A) are available to all such participants and

beneficiaries on a reasonably equivalent basis; (B) are not made available to highly compensated employees, officers, or shareholders in an amount greater than the amount made available to other employees;³ (C) are made in accordance with specific provisions regarding such loans set forth in the plan; (D) bear a reasonable rate of interest; and (E) are adequately secured. Congress indicated that it had adopted this provision "[f]ollowing current practice" under the Code preceding the enactment of the Act. H.R. Rep. No. 1280, 93rd Cong., 2d Sess. 311 (1974) [hereinafter Conf. Rpt.]

Despite both the availability of information regarding the pre-ERISA status of participant loans, and the specificity of the terms of section 408(b)(1) itself, the Department has received numerous requests for advisory opinions which have indicated uncertainty with respect to the scope of relief provided by section 408(b)(1) and the meaning of the terms used therein.⁴ Upon consideration of the degree of public interest in utilizing appropriately designed and administered participant loan programs, the Department has decided to propose a regulation under section 408(b)(1) to provide guidance to fiduciaries of employee benefit plans.

Proposed regulation 29 CFR 2550.408b-1, discussed in detail below, addresses the scope of the coverage of section 408(b)(1). If the proposed regulation is adopted, the Department will not regard transactions as coming within the term of section 408(b)(1) unless such transactions come within the terms of regulation § 2550.408b-1.

³ Section 1114(b)(15)(B) of the Tax Reform Act of 1986 (Pub. L. 99-514) amends section 408(b)(1)(B) by deleting the phrase "highly compensated employees, officers, or shareholders" and substituting the phrase "highly compensated employees (within the meaning of section 414(q) of the Internal Revenue Code of 1986)" for years beginning after December 31, 1988.

⁴ In response to most of these inquiries, the Department has declined to issue the requested advisory opinions because the applications presented issues which were inherently factual in nature or which could not reasonably be resolved prior to the issuance of a regulation. Section 5 of ERISA Procedure 76-1 (41 FR 36281, August 27, 1976) provides, among other things, that the Department will generally not issue advisory opinions under such circumstances. See, e.g., letter to William G. Dallavo (No. F-1400) (November 28, 1979); letter to James R. Fei (No. F-1496) (June 12, 1980); letter to Thomas R. Hoecher, Esq. (No. F-1767) (February 6, 1981). Washington Service Bureau File No. 91-027. The primary exception to this policy is Advisory Opinion 81-12A (letter to Robert Georgine, January 15, 1981) regarding the "reasonable rate of interest" requirement in section 408(b)(1)(D) of the Act. This requirement will be discussed, *infra*.

¹ Section 3(21)(A) of the Act provides in part that a person is a fiduciary with respect to a plan to the extent: (i) He exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets; (ii) he renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of such plan, or has any authority or responsibility to do so; or (iii) he has any discretionary responsibility in the administration of such plan.

² The term "party in interest" is defined in section 3(14) of the Act to include persons providing services to the plan; employers any of whose employees are covered by the plan; an employee organization any of whose members are covered by the plan; persons or other entities having specified relationships with the plan; and employees, officers or directors of any of the foregoing. The term "party in interest" also includes fiduciaries.

B. Discussion of Proposed Regulation

1. *Scope.* Proposed regulation § 2550.408b-1(a)(1) contains a general rule which is substantially identical to the terms of section 408(b)(1) of the act. Thus, the proposed regulation states that the relief provided under section 408(b)(1) is available if loans made by a plan to participants and beneficiaries who are parties in interest with respect to the plan: (A) Are available to all such participants and beneficiaries on a reasonably equivalent basis; (B) are not made available to highly compensated employees, officers, or shareholders in an amount greater than the amount made available to other employees; (C) are made in accordance with specific provisions regarding such loans set forth in the plan; (D) bear a reasonable rate of interest; and (E) are adequately secured.

The proposal indicates that, if these conditions are met, section 408(b)(1) will provide relief, with regard to the loans to participants, from the prohibitions of section 406(a) of the act (which prohibits a fiduciary from causing a plan to engage in certain transactions with a party in interest), section 406(b)(1) of the act (which prohibits a fiduciary from dealing with plan assets in his own interest or for his own account) and section 406(b)(2) (which prohibits fiduciaries in their individual or in any other capacity from acting in any transaction involving the plan on behalf of, or representing a party whose interests are adverse to those of the plan, its participants, or its beneficiaries). Proposed § 2550.408b-1(a)(2) states, however, that section 408(b)(1) does not provide relief from section 406(b)(3) of the act (which prohibits fiduciaries from receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving plan assets).

If adopted, proposed § 2550.408b-1(a)(1) and (2) would have several effects. By stating that section 408(b)(1) of the act contains relief from the prohibitions of sections 406(b)(1) and 406(b)(2), a fiduciary who is also a plan participant would be permitted to receive a loan under the participant loan program. In this regard, the Department notes that section 408(b)(1) was designed to provide relief on a nondiscriminatory and equitable basis to all plan participants who are parties in interest with respect to the plan.⁶ Section

3(14)(A) of the act includes fiduciaries within the definition of the term "party in interest". Nothing contained in section 408(b)(1) or its legislative history suggests that Congress intended to limit the availability of such loans because of a participant's fiduciary status. Proposed § 2550.408b-1(a)(3) recognizes such Congressional intent.

The exemption under section 408(b)(1) includes within its coverage certain transactions in which the potential for self-dealing by fiduciaries exists and in which the interests of fiduciaries may conflict with the interests of participants. To guard against potential abuses, the Department will subject these transactions to special scrutiny to ensure that the conditions of section 408(b)(1) have been met in connection with a fiduciary receiving a loan under a participant loan program. The regulations, and accompanying examples, make it clear that a fiduciary may only receive a loan from a plan if: (1) The program is administered under strict objective criteria which assure the equitable availability of the assets committed to the program among qualified participants, and (2) the borrowing fiduciary does not receive more favorable consideration or terms than other plan participants requesting a loan.

In the event of default upon an exempt loan by a plan fiduciary, the Department expects that appropriate action will be taken in accordance with the strict objective criteria developed under the loan program to assure the preservation of plan assets.

Fiduciaries are cautioned to scrupulously exercise their discretion in approving loans to themselves or other fiduciaries and should be prepared to demonstrate that the borrowing fiduciary received the same consideration or terms as other plan participants seeking a loan. In order to avoid potential conflicts of interest and appearances of impropriety, the Department strongly encourages those programs under which loans to fiduciaries are granted and administered by fiduciaries or loan committees who are independent of the borrowing fiduciary.

Proposed § 2550.408b-1(a)(3) further provides that a loan will not be exempt under section 408(b)(1) unless it is arranged and approved by the fiduciary administering the loan program

primarily in the interest of the participants and otherwise satisfies the conditions set forth in section 408(b)(1) of the act. In the Department's view, Congress did not intend to sanction a participant loan program that was established and operated for the benefit of parties in interest other than participants and their beneficiaries. Thus, no relief would be available under section 408(b)(1) for a loan program which in form or in operation limits loans to those participants who agree or acknowledge to the fiduciary administering the program that their loan proceeds will be used in furtherance of an employer's or other party in interest's business enterprise. Similarly, consideration by a plan fiduciary of factors which are not related to the merits of the loan as an investment, such as a potential borrower's prior agreement with the fiduciary to reloan the proceeds to a party in interest, would also fail to comply with the proposed regulations. In this regard, a participant loan program will not fall outside the scope of the regulations merely because the program, by its express terms, limits loans to certain stated purposes, e.g. hardship, medical or college education, which are not inconsistent with the interests of plan participants and beneficiaries.

Moreover, a participant loan program which limits the availability of loans to those participants who agree to apply the loan proceeds for the benefit of other parties in interest, such as the employer, calls into question whether loans made under such program satisfy the exclusive purpose requirements of section 403(c) and 404(a) of the Act.⁷

Conversely, in the absence of any inappropriate precondition or other facts and circumstances indicating that the loan program is not administered primarily for the benefit of participants, the proposed regulation contains no restrictions on the uses that plan participants may make of the borrowed money. Nothing in this regulation should be interpreted as limiting the subsequent use by the borrowing plan participant of the proceeds of a bona fide loan. In the Department's view, the subsequent use by or transfer to non-participant parties

⁷ Section 403(c) provides, in part, that the assets of a plan shall never inure to the benefit of any employer and shall be held for the exclusive purposes of providing benefits to participants in the plan and their beneficiaries and defraying reasonable expenses of administering the plan. Section 404(a) requires, among other things, that a fiduciary discharge his duties respecting the plan solely in the interest of plan participants and beneficiaries and for the exclusive purpose of providing benefits to participants and their beneficiaries.

⁶ See note 3, *supra*.

⁶ The Department particularly notes that section 408(b)(1)(A), discussed in more detail, *infra*, provides that loans must be made available to "all such participants and beneficiaries on a reasonably equivalent basis." (Emphasis added.) See also

Senate Comm. on Finance, Private Pension Plan Reform, S. Rep. No. 363, 93d Cong., 1st Sess. 98 (1973), reprinted in Subcomm. on Labor, Senate Comm. on Labor and Pub. Welfare, Legislative History of the Employee Retirement Income Security Act of 1974, 94th Cong., 2d Sess. 1166 (Comm. Print 1976).

in interest at the unfettered discretion of the borrower is distinguishable from a precondition established by the fiduciaries administering the loan program which requires the plan participant to use the loan proceeds to benefit a party in interest.

In addition, under the proposal, no relief will be available for transactions which, although formally executed as loans, are made with the understanding that the borrower has no intention to repay. Such a transaction would not constitute a participant loan, but merely a transfer of plan assets to or for the benefit of a party in interest in violation of section 406(a)(1)(D) of the act. All the surrounding facts and circumstances will be considered in determining whether a loan satisfies the requirements under the proposal. Proposed § 2550.408b-1(a)(4) contains examples designed to illustrate these requirements.

Similarly, the Department recognizes that fiduciaries may find it necessary on occasion to dispose of property securing a participant loan in the event of default on the loan. Under those circumstances, the Department believes that the relief provided by section 408(b)(1) encompasses the sale, foreclosure or other disposal of the plan's security interest to satisfy a participant's outstanding obligation in the event of default. However, section 408(b)(1) does not provide an exemption for the sale or other disposal of the plan's security interest to a party in interest in the event of default. The Department further cautions that, in circumstances other than default, the transfer of property by a party in interest in repayment of a participant loan will be viewed as a prohibited sale or exchange of property under section 406 of the act.

2. Reasonably Equivalent Basis. Section 408(b)(1)(A) of the act states that the relief contained in section 408(b)(1) applies only if the loans are available on a reasonably equivalent basis to all participants and beneficiaries who are parties in interest with respect to the plan. Proposed regulation § 2550.408b-1(b) is designed to explain this provision. In accordance with applicable legislative history, the proposal first indicates that such loans must be made available to all plan participants and beneficiaries without regard to an individual's race, color, religion, age, sex or national origin.⁹

⁹ 120 CONG. REC. 4726 (Feb. 28, 1974) as reprinted in Subcomm. on Labor, U.S. Senate Comm. on Labor and Pub. Welfare, 94th CONG., 2d SESS., Legislative History of the Employee Retirement Income Security Act of 1974 3518

Further, the proposal would require that, in making a loan, the plan may consider only those factors which would be considered in a normal commercial setting by an entity in the business of making similar loans. Such factors could include, among others, the applicant's creditworthiness or financial need.⁹ Both the form and operation of the participant loan program will determine whether loans are actually made on a reasonably equivalent basis. Proposed § 2550.408b-1(b)(2) contains examples designed to illustrate these considerations.

3. Highly Compensated Employees. Section 408(b)(1)(B) states that the relief provided in section 408(b)(1) is available only if participant loans are not made available to highly compensated employees, officers, or shareholders in an amount greater than the amount made available to other employees. With regard to this provision, Congress stated:

The conferees intend that this will allow a plan to lend the same percentage of a person's vested benefits to participants with both large and small amounts of accrued vested benefits. (However, the percentage is to be consistent with the requirements of adequate security.) The conferees also intend that a plan may provide that the same dollar amounts may be loaned to participants and beneficiaries without regard to the amount of their vested benefits if adequate security is otherwise provided. For example, a plan could provide for loans to participants and beneficiaries in an amount up to, e.g., \$30,000 to buy a house (even if the \$30,000 is greater than the amount of the participant's or beneficiary's vested benefits) if the loan is adequately secured by, e.g., a first mortgage on the house.

Conf. Rpt., *supra*, at 312. In light of this, proposed regulation § 2550.408b-1(c)(2) states that a participant loan program will not fail to meet this requirement if the plan documents specifically governing the participant loan program set forth either: (1) A maximum dollar limitation, or (2) a maximum percentage of vested accrued benefit which no loan may exceed. Section 2550.408b-1(c)(3) of the proposal goes on to state that if the second alternative (maximum percentage of vested accrued benefit) is chosen, a loan program will not fail to meet this requirement solely because maximum loan amounts will vary directly with the size of the participant's vested accrued benefit.¹⁰ However, no

(Remarks of Rep. Abzug and Rep. Dent) Comm. Print 1976; Conf. Rpt. *supra*, at 311.

⁹ See Conf. Rpt., *supra*, at 311.

¹⁰ The Department notes that the Tax Equity and Fiscal Responsibility Act of 1982 [TEFRA] [Pub. L. 97-428] places a number of restrictions on participant loans for certain tax purposes. In addition, the Department notes that the Tax Reform

loan program will satisfy this requirement if the program operates to exclude large numbers of plan participants from receiving loans.¹¹ Proposed section 2550.408-1(c)(4) contains examples of the application of these provisions.

4. Specific Plan Provisions. Section 408(b)(1)(C) of the Act states that the relief provided by section 408(b)(1) will be available only for loans made in accordance with specific provisions regarding such loans set forth in the plan. In the Department's view, this requirement seeks to assure that the safeguards otherwise afforded by section 408(b)(1) to the plan and those participants seeking loans are not compromised by informal arrangements which could serve as a basis for improper discrimination or arbitrarily determined terms. The Department believes that a formal decisionmaking process based on detailed loan provisions contained in the plan or in a written document forming part of the plan is necessary to accomplish this underlying purpose.

However, the Department is aware that participant loan programs may already be operating pursuant to a variety of provisions in plan documents. The Department does not intend to call into question the validity of such programs where the plan provisions governing participant loans are reasonably calculated to apprise potential borrowers of the existence and scope of the loan program. As a result, proposed regulation § 2550.408b-1(d)(1) states that, in the case of a participant

Act of 1986 (Pub. L. 99-514) places further restrictions on participant loans. For example, section 236 of TEFRA and section 1134 of the Tax Reform Act amend section 72 of the Code to state that a participant loan will be treated as a distribution under the plan unless such loan does not exceed the lesser of: (i) \$50,000 (which amount must be reduced by the outstanding balances for any previous participant loans from the plan in accordance with section 72(p)(2)(A)); or (ii) one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan (but not less than \$10,000). In the Department's view, a participant loan program administered pursuant to plan provisions which have been amended to preclude the making of loans which would be considered distributions under section 72(p) of the Code will not fail to satisfy the condition in section 408(b)(1)(B) of the Act and proposed § 2550.408-1(c).

¹¹ The Department notes the amendment to section 408(b)(1)(B) contained in section 1114(b)(15)(B) of the Tax Reform Act of 1986, discussed in note 3, *supra*. In the Department's view, this amendment merely clarifies the categories of persons in whose favor a loan program may not discriminate while not affecting the requirement contained in section 408(b)(1)(B) that a loan program must be operated in a nondiscriminatory manner so as not to exclude large numbers of plan participants. Accordingly, the Department has decided not to propose a special effective date for proposed § 2550.408b-1(c).

loan granted or renewed at any time prior to the last day of the first plan year beginning on or after January 1, 1989, the Department will consider the loans are made in accordance with specific provisions regarding such loans set forth in the plan if the plan contains an explicit authorization for the establishment of a participant loan program.

In the case of a participant loan granted or renewed on or after the last day of the first plan year beginning on or after January 1, 1989, proposed regulation § 2550.408b-1(d)(2) states that the participant loans must be governed by provisions in the plan or in a written document forming part of the plan which include, but need not be limited to: (1) The identity of the person or position authorized to administer the participant loan program; (2) a procedure for applying for loans; (3) the basis on which loans will be approved or denied; (4) limitations (if any) on the types and amounts of loans offered; (5) the procedure under the program for determining a reasonable rate of interest; (6) the types of collateral which may secure a participant loan; and (7) the events constituting default and the steps that will be taken to preserve plan assets in the event of such default. The Department does not intend this to be an exhaustive list. Rather, the provisions in the plan documents should be sufficiently complete so as to apprise all possible borrowers of the scope and procedures of the loan program. If the plan fails either to contain such specific provisions or to administer participant loans in accordance with a written program, loans made under such a program will fail to qualify for the relief extended in section 408(b)(1). In this regard, the Department intends that loans to fiduciaries will be administered in accordance with objective criteria developed in conjunction with a written participant loan program.

5. Reasonable Rate of Interest. Section 408(b)(1)(D) of the Act states that, in order for a loan to be covered by the relief provided by section 408(b)(1), such loan must bear a reasonable rate of interest. Since it is the view of the Department that a participant loan is a plan investment, the Department believes this statutory exemption contemplates that loans involving parties in interest, which otherwise would be prohibited under ERISA, would be permitted only if plans receive the rate of interest that professional lenders exercising sound investment practices would charge on similar arms-length loans. Thus, under proposed regulation § 2550.408b-1(e), a

"reasonable rate of interest" is one which provides the plan with a return commensurate with the prevailing interest rate charged by persons in the business of lending money for loans which would be made under similar circumstances. This objective prevailing rate standard was described in Advisory Opinion 81-12A, *supra*, after an examination of the relevant legislative history and the practice under the Code prior to enactment of ERISA. In that letter, the Department stated that the prevailing rate standard permits a fiduciary to consider those factors pertaining to the opportunity for gain and the risk of loss that professional lenders would consider in setting the rate of interest on a similar arm's-length loan.¹² The prevailing rate,

¹² The Department acknowledges that the approach taken in A. O. 81-12A was not adopted by the court in *Brock v. Walton*, No. 85-5841 (11th Cir., July 21, 1986). Loans under the participant loan program in *Walton* were made on the average at interest rates 2½ percentage points lower than prevailing rates in the community. Loans made on these terms, however, provided the plan with returns higher than those of other plan assets and in excess of the plan's actuarial and funding requirements.

The Department contended that by making below prevailing rate loans, the trustees had violated the fiduciary duty provisions of section 404(a)(1) (A) and (B). Further, the Department argued that loans made below the prevailing rate would fail to bear a reasonable rate of interest and would therefore be ineligible for the statutory exemption provided in section 408(b)(1).

In rejecting the Department's position, the court in *Walton* held the interest rate differential was not alone sufficient to show that the trustees had acted imprudently, or that the loans failed to bear a reasonable rate of interest. However, the court did state that there could be cases in which the rate of interest could depart so far from the prevailing rate that a loan could not be justified as prudent or in the best interest of plan participants.

After a careful review of the court's opinion, it continues to be the Department's position that the law of trusts establishes an objective standard of fiduciary conduct which has been incorporated by Congress in ERISA and applied in numerous cases thereunder. See, e.g., *Donovan v. Cunningham*, 716 F.2d 1455, 1467-68 (5th Cir. 1983), cert. denied 104 S. Ct. 3533 (1984); *Donovan v. Mazzola*, 716 F.2d 1226, 1231-32 (9th Cir. 1983), cert. denied 464 U.S. 1040 (1984); *Freund v. Marshall & Ilsley Bank*, 485 F. Supp. 629, 635 (W.D. Wisc. 1979). Further, the legislative history clearly indicates that Congress provided an exemption from the prohibited transaction rules for participant loans in section 408(b)(1) "following current practice." Conf. Rpt., *supra*, at 311. In discussing the state of the law prior to the passage ERISA, Congress noted:

Under the Internal Revenue Code, qualified retirement plans must be for the exclusive benefit of the employees and their beneficiaries. Following this requirement, the Internal Revenue Service has developed general rules that govern the investment of plan assets, including a requirement that cost must not exceed fair market value at the time of purchase, there must be a fair return commensurate with the prevailing rate, sufficient liquidity must be maintained to permit distributions, and the safeguards and diversity that a prudent investor would adhere to must be present.

Id. 302. [Emphasis added.] See 26 U.S.C. 503(b)(1) [1970], Treas. Reg. § 1.503(b)-1(c) [1960].

of course may vary with the creditworthiness of the borrower and the security given for the loan. Moreover, the prevailing rate will ordinarily represent a narrow range of rates offered by similarly situated lenders making similar loans in the marketplace. Although the Department views the prevailing rate concept as a flexible standard, the advisory opinion emphasizes that a participant loan or program of loans, as a plan investment, would not be prudent if the investment provided a plan with less return, relative to risk, than comparable investments available to the plan, or if it involved a greater risk to the security of plan assets than other investments offering a similar return.

While the Department believes, as stated above, that the prevailing rate standard is the appropriate interpretation of the "reasonable rate of interest" requirement of section 408(b)(1)(D), it also believes that such an interpretation is also necessary to further the primary policy objective of ERISA—to protect and enhance the retirement income of participants and beneficiaries. Accordingly, the Department views a participant loan as an investment subject to the same standards of ERISA as any other investment, e.g., the prudence and exclusive benefit rules. Thus, where a plan is acting, in effect, as a lender, there is no rationale under ERISA for permitting the plan to assume a risk at a lesser return than the return that market forces would have set for assuming such a risk.

The prevailing rate standard is also supported by another strong policy consideration. By defining "reasonable rate" as the "prevailing rate", the regulation is also consistent with the Department's objective of providing guidance to plan fiduciaries that will facilitate the establishment and operation of participant loan programs.

Proposed regulation § 2550.408b-1(e) contains examples of the application of these provisions.

6. Adequate Security. Section 408(b)(1)(E) of the Act states that the relief provided by section 408(b)(1) will apply only to loans that are adequately secured. Prior to the enactment of ERISA, section 503(a) of the Code provided that certain organizations

In view of this, the Department believes there is sufficient basis to conclude that both sections 404 and 408(b)(1) require participant loans to provide the plan with a fair return commensurate with the prevailing rate. As a result, the Department has determined to include its longstanding interpretation of the reasonable rate of interest standard in section 408(b)(1)(D) in this proposal.

would lose their tax exempt status if they engaged in a prohibited transaction. Section 503(b) of the Code listed as one such prohibited transaction certain loans made without receipt of adequate security or a reasonable rate of interest. Pursuant to this requirement, the Internal Revenue Service adopted regulation 26 CFR 1.503b-1(b)(1) to define the term "adequate security". The Department proposes to adopt a similar approach in proposed regulation 2550.408b-1(f), which states that a loan will be considered to be adequately secured if the security posted for such loan is something in addition to and supporting a promise to pay, which is so pledged to the plan that it may be sold, foreclosed upon, or otherwise disposed of in default of the loan, the value and liquidity of which security is such that it may be anticipated that loss of principal or interest will not result from the loan. To the extent that there are restrictions under applicable Code provisions against reduction or disposal of a participant's vested accrued benefit to satisfy a participant's outstanding obligation in the event of a default, such security may not be adequate for purposes of section 408(b)(1)(E) of the act. Under such circumstances, additional security must be pledged.¹³

The proposal also states that a determination as to the adequacy of security will be made in light of the type and amount of security which would be required in the case of a comparable transaction in a normal commercial (arm's-length) setting between unrelated parties.

Executive Order 12291 Statement

The final rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers; individual industries, Federal, State, or local government agencies, or geographic regions; or (3)

¹³ In this regard, the Department notes that participant loans are generally subject to the Retirement Equity Act of 1984 (Pub. L. 98-397). Specifically, a reduction in an accrued benefit to satisfy a participant's loan obligation to the plan is treated as a distribution from the plan and is generally subject to the applicable consent requirement of ERISA section 205 and Code sections 401(a)(11) and 417(e) [see 26 CFR 1.417(e)-1T(d)]. If the plan does not obtain the required consent prior to the making a loan secured by the participant's accrued benefit, the plan may not be able to execute on the security by reducing the participant's accrued benefit without violating Code section 417(e). Thus, under the above circumstances, the plan may have made a loan that is not adequately secured within the meaning of this proposed regulation.

significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The action will impose some costs on employee benefit plans. These costs have been estimated to be one-time costs of just under \$18 million and subsequent annual costs of less than \$150,000.

Regulatory Flexibility Act Statement

The Department does not believe that this regulation would have a significant economic effect on small plans. In conducting the analysis required under the Paperwork Reduction Act of 1980, it was estimated that the one-time cost to each pension plan of implementing the regulation would be approximately \$100. The only burden attributable to this regulation is the one-time burden of amending the plan documents to include the specific plan provisions describing the participant loan program which are required by the regulation and amending the summary plan description in order to apprise participants of the required provisions. Further, it should be noted that the Tax Reform Act of 1986 (Pub. L. 99-154) requires that plan amendments be made generally within the same time frame as that proposed in these regulations. This regulation would not increase reporting requirements for private pension plans, and would not affect competition within any particular industry.

The number of small entities estimated to be affected by this regulation is substantial. An estimated 163,000 small plans may have to be amended to incorporate the specific plan provisions required by these regulations. Annually, the number of new loan programs instituted by small plans that will require specific provisions to be included in the plan is estimated to be 8,000.

The Department chose not to make any distinction between requirements for small and large plans. The requirements imposed by ERISA and this regulation are designed to insure that participant loan programs are administered fairly and do not favor those individuals who have control over the plans. There are no characteristics of small plans that would make their loan programs less susceptible to abuse than loan programs of large plans.

Paperwork Reduction Act Statement

Section 2550.408b-1(d) of the proposed regulation contains a paperwork requirement. The regulation has been

forwarded for approval by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). A control number has not yet been assigned.

Statutory Authority

The proposed regulation set forth herein is issued pursuant to sections 408(b)(1) (Pub. L. 93-406, 88 Stat. 877, 29 USC 1108) and 505 (Pub. L. 93-406, 88 Stat. 894, 29 USC 1135) of the Act and under Secretary of Labor's Order No. 1-86.

List of Subjects in 29 CFR Part 2550

Employee benefit plans, Employee retirement income Security Act, Employee stock ownership plans, Exemptions, Fiduciaries, Investments, Investments foreign, Party in interest, Pensions, Pension and Welfare Benefit Programs Office, Prohibited transactions, Real estate, Securities, Surety bonds, Trusts, Trustees.

In view of the foregoing, the Department proposes to amend Part 2550 of Chapter XXV of Title 29 of the Code of Federal Regulations as follows:

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

1. The authority citation for Part 2550 is revised to read as set forth below.

Authority: 29 U.S.C. 1135.

Section 2550.401b-1 also issued under sec. 102, Reorganization Plan No. 4 of 1978 (43 FR 47713, Oct. 17, 1978), effective December 31, 1978 (44 FR 1065, Jan. 3, 1979), 3 CFR, 1978 Comp., 332.

Section 2550.407c-3 also issued under 29 U.S.C. 1107.

Section 2550.408b-1 also issued under sec. 102, Reorganization Plan No. 4 of 1978 (43 FR 47713, Oct. 17, 1978), effective December 31, 1978 (44 FR 1065, Jan. 3, 1979), 3 CFR, 1978 Comp., 332.

Section 2550.412-1 also issued under 29 U.S.C. 1112.

Section 2550.414b-1 also issued under 29 U.S.C. 1114.

Secretary of Labor's Order No. 1-86.

2. Part 2550 is amended by adding a new § 2550.408b-1, to read as follows:

§ 2550.408b-1 **General statutory exemption for loans to plan participants and beneficiaries who are parties in interest with respect to the plan.**

(a)(1) *In general.* Section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (the Act) exempts from the prohibitions of section 406(a), 406(b)(1) and 406(b)(2) loans by a plan to parties in interest who are participants or beneficiaries of the plan, provided that such loans:

- (i) Are available to all such participants and beneficiaries on a reasonably equivalent basis;
- (ii) Are not made available to highly compensated employees, officers or shareholders in an amount greater than the amount made available to other employees;
- (iii) Are made in accordance with specific provisions regarding such loans set forth in the plan;
- (iv) Bear a reasonable rate of interest; and
- (v) Are adequately secured.

The Internal Revenue Code (the Code) contains parallel provisions to section 408(b)(1) of the Act. Effective, December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to promulgate regulations of the type proposed herein to the Secretary of Labor. Therefore, all references herein to section 408(b)(1) of the Act should be read to include reference to the parallel provisions of section 4975(d)(1) of the Code.

(2) *Scope.* Section 408(b)(1) of the Act does not contain an exemption from acts described in section 406(b)(3) of the Act (prohibiting fiduciaries from receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving plan assets). If a loan from a plan to a participant who is a party in interest with respect to that plan involves an act described in section 406(b)(3), such an act constitutes a separate transaction which is not exempt under section 408(b)(1) of the Act. The provisions of section 408(b)(1) are further limited by section 408(d) of the Act (relating to transactions with owner-employees and related persons).

(3) *Loans.* (i) Section 408(b)(1) of the Act provides relief from the prohibitions of section 406(a), 406(b)(1) and 406(b)(2) for the making of a participant loan. The term "participant loan" refers to a loan which is arranged and approved by the fiduciary administering the loan program primarily in the interest of the participant and which otherwise satisfies the criteria set forth in section 408(b)(1) of the Act. The existence of a participant loan or participant loan program will be determined upon consideration of all relevant facts and circumstances. Thus, for example, the mere presence of a loan document appearing to satisfy the requirements of section 408(b)(1) will not be dispositive of whether a participant loan exists where the subsequent administration of the loan indicates that the parties to the loan agreement did not intend the loan to be repaid. Moreover, a loan program

containing a precondition designed to benefit a party in interest (other than the participant) is not afforded relief by section 408(b)(1) or this regulation. In this regard, section 408(b)(1) recognizes that a program of participant loans, like other plan investments, must be prudently established and administered for the exclusive purpose of providing benefits to participants and beneficiaries of the plan.

(ii) For the purpose of this regulation, the term "loan" will include any renewal or modification of an existing loan agreement, provided that, at the time of each such renewal or modification, the requirements of section 408(b)(1) and this regulation are met.

(4) *Examples.* The following examples illustrate the provisions of 2550.408b-1(a).

Example (1). T, a trustee of plan P, has exclusive discretion over the management and disposition of plan assets. As a result, T is a fiduciary with respect to P under section 3(21)(A) of the Act and a party in interest with respect to P pursuant to section 3(14)(A) of the Act. T is also a participant in P. Among T's duties as fiduciary is the administration of a participant loan program which meets the requirements of section 408(b)(1) of the Act. Pursuant to strict objective criteria stated under the program, T, who participates in all loan decisions, receives a loan on the same terms as other participants. Although the exercise of T's discretion on behalf of himself may constitute an act of self-dealing described in section 406(b)(1), section 408(b)(1) provides an exemption from section 406(b)(1). As a result, the loan from P to T would be exempt under section 408(b)(1), provided the conditions of that section are otherwise satisfied.

Example (2). P is a plan covering all the employees of E, the employer who established and maintained P. F is a fiduciary with respect to P and an officer of E. The plan documents governing P give F the authority to establish a participant loan program in accordance with section 408(b)(1) of the Act. Pursuant to an arrangement with E, F establishes such a program but limits the use of loan funds to investments in a limited partnership which is established and maintained by E as general partner. Under these facts, the loan program and any loans made pursuant to this program are outside the scope of relief provided by section 408(b)(1) because the loan program is designed to operate for the benefit of E.

Example (3). Assume the same facts as in Example 2, above, except that F does not limit the use of loan funds. However, E pressures his employees to borrow funds under P's participant loan program and then reloan the loan proceeds to E. F, unaware of E's activities, arranges and approves the loans. If the loans meet all the conditions of section 408(b)(1), such loans will be exempt under that section. However, E's activities would cause the entire transaction to be viewed as an indirect transfer of plan assets between P and E, who is a party in interest

with respect to P, but not the participant borrowing from P. By coercing the employees to engage in loan transactions for its benefit, E, has engaged in separate transactions that are not exempt under section 408(b)(1). Accordingly, E would be liable for the payment of excise taxes under section 4975 of the Code. Under the circumstances described, the diversion of plan assets for E's benefit would also violate sections 403(c)(1) and 404(a) of the Act.

Example (4). Assume the same facts as in Example 2, above, except that, in return for structuring and administering the loan program as indicated, E, agrees to pay F an amount (in addition to F's normal fiduciary fee) equal to 10 percent of the funds loaned under the program. Such a payment would result in a separate transaction not covered by section 408(b)(1). This transaction would be prohibited under section 406(b)(3) since F would be receiving consideration from a party in connection with a transaction involving plan assets.

Example (5). F is a fiduciary with respect to plan P. D is a party in interest with respect to plan P. Section 406(a)(1)(B) of the act would prohibit F from causing P to lend money to D. However, F enters into an agreement with Z, a plan participant, whereby F will cause P to make a participant loan to Z with the express understanding that Z will subsequently lend the loan proceeds to D. An examination of Z's credit standing indicates that he is not credit worthy and would not, under normal circumstances, receive a loan under the conditions established by the participant program. F's decision to approve the participant loan to Z on the basis of Z's prior agreement to lend the money to D violates the exclusive purpose requirements of sections 403(c) and 404(a). In effect, the entire transaction is viewed as an indirect transfer of plan assets between P and D, and not a loan to a participant exempt under section 408(b)(1). Z's lack of credit standing would also cause the transaction to fail under section 408(b)(1)(A) of the act.

Example (6). F is fiduciary with respect to Plan P. Z is a plan participant. Z and D are both parties in interest with respect to P. F approves a participant loan to Z in accordance with the conditions established under the participant loan program. Upon receipt of the loan, Z intends to lend the money to D. If F has approved this loan solely upon consideration of those factors which would be considered in a normal commercial setting by an entity in the business of making comparable loans, Z's subsequent use of the loan proceeds will not affect the determination of whether loans under P's program satisfy the conditions of section 408(b)(1).

Example (7). A is the trustee of a small individual account plan. D, the president of the plan sponsor, is also a participant in the plan. Pursuant to a participant loan program meeting the requirements of section 408(b)(1), D applies for a loan to be secured by a parcel of real property. D does not intend to repay the loan; rather, upon eventual default, he will permit the property to be foreclosed upon and transferred to the plan in discharge of his legal obligation to repay the loan. A, aware of

D's intention, approves the loan. D fails to make two consecutive quarterly payments of principal and interest under the note evidencing the loan thereby placing the loan in default. The plan then acquires the real property upon foreclosure. Such facts and circumstances indicate that the payment of money from the plan to D was not a participant loan eligible for the relief afforded by section 408(b)(1). In effect, this transaction is a prohibited sale or exchange of property between a plan and a party in interest from the time D receives the money.

Example (8). Plan P establishes a participant loan program. All loans are subject to the condition that the borrowed funds must be used to finance home purchases. Interest rates on the loans are the same as those charged by a local savings and loan association under similar circumstances. A loan by P to a participant to finance a home purchase would be subject to the relief provided by section 408(b)(1) provided that the conditions of 408(b)(1) are met. A participant loan program which is established to make loans for certain stated purposes (e.g., hardship, college tuition, home purchases, etc.) but which is not otherwise designed to benefit parties in interest (other than plan participants) would not, in itself, cause such program to be ineligible for the relief provided by section 408(b)(1). However, fiduciaries are cautioned that operation of a loan program with limitations may result in loans not being made available to all participants and beneficiaries on a reasonably equivalent basis.

(b) *Reasonably Equivalent Basis.* (1) Loans will not be considered to have been made available to participants and beneficiaries on a reasonably equivalent basis unless:

(i) Such loans are available to all plan participants and beneficiaries without regard to any individual's race, color, religion, sex, age or national origin;

(ii) In making such loans, consideration has been given only to those factors which would be considered in a normal commercial setting by an entity in the business of making similar types of loans. Such factors may include the applicant's creditworthiness and financial need; and

(iii) An evaluation of all relevant facts and circumstances indicates that, in actual practice, loans are not unreasonably withheld from any applicant.

(2) *Examples.* The following examples illustrate the provisions of § 2550.408b-1(b)(1):

Example (1). T, a trustee of plan P, has exclusive discretion over the management and disposition of plan assets. T's duties include the administration of a participant loan program which meets the requirements of section 408(b)(1) of the Act. T receives a participant loan at a lower interest rate than the rate made available to other plan

participants of similar financial condition or creditworthiness. The loan by P to T would not be covered by the relief provided by section 408(b)(1) because loans under P's program are not available to all plan participants on a reasonably equivalent basis.

Example (2). Same facts as in example 1, except that T is a member of a committee of trustees responsible for approving participant loans. T pressures the committee to refuse loans to other qualified participants in order to assure that the assets allocated to the participant loan program would be available for a loan by P to T. The loan by P to T would not be covered by the relief provided by section 408(b)(1) since participant loans have not been made available to all participants and beneficiaries on a reasonably equivalent basis.

Example (3). T is the trustee of plan P, which covers the employees of E, A, B and C are employees of E, participants in P, and friends of T. The documents governing P provide that T, in his discretion, may establish a participant loan program meeting certain specified criteria. T institutes such a program and tells A, B, and C of his decision. Before T is able to notify P's other participants and beneficiaries of the loan program, A, B, and C file loan applications which, if approved, will use up substantially all of the funds set aside for the loan program. Approval of these applications by T would represent facts and circumstances showing that loans under P's program are not available to all participants and beneficiaries on a reasonably equivalent basis.

(c) *Highly Compensated Employees.*

(1) Loans will not be considered to be made available to highly compensated employees, officers or shareholders in an amount greater than the amount made available to other employees if, upon consideration of all relevant facts and circumstances, the program does not operate to exclude large numbers of plan participants from receiving loans under the program.

(2) A participant loan program will not fail to meet the requirement in paragraph (1), above, merely because the plan documents specifically governing such loans set forth either: (i) A maximum dollar limitation, or (ii) a maximum percentage of vested accrued benefit which no loan may exceed.

(3) If the second alternative in paragraph (2) above (maximum percentage of vested accrued benefit) is chosen, a loan program will not fail to meet this requirement solely because maximum loan amounts will vary directly with the size of the participant's accrued benefit.

(4) *Examples.* The following examples illustrate the provisions of § 2550.408b-1(c).

Example (1). The documents governing plan P provide for the establishment of a participant loan program in which the amount

of any loan under the program (when added to the outstanding balances of any other loans under the program to the same participant) does not exceed the lesser of (i) \$50,000, or (ii) one-half of the present value of that participant's vested accrued benefit under the plan (but not less than \$10,000). P's participant loan program does not fail to meet the requirement in section 408(b)(1) of the Act, provided the other conditions of that section are met.

Example (2). The documents governing plan T provide for the establishment of a participant loan program in which the minimum loan amount would be \$25,000. The documents also require that the only security acceptable under the program would be the participant's vested accrued benefit. A, the plan fiduciary administering the loan program, finds that because of the restrictions in the plan documents only 20 percent of the plan participants, all of whom earn in excess of \$75,000 a year, would meet the threshold qualifications for a loan. Most of these participants are high-level supervisors or corporate officers. Based on these facts, it appears that loans under the program would be made available to highly compensated employees in an amount greater than the amount made available to other employees. As a result, the loan program would fail to meet the requirement in section 408(b)(1)(B) of the Act and would not be covered by the relief provided in section 408(b)(1).

(d) *Specific Plan Provisions.* For the purposes of section 408(b)(1) and this regulation, the Department will consider that participant loans granted or renewed at any time prior to the last day of the first plan year beginning on or after January 1, 1989, are made in accordance with specific provisions regarding such loans set forth in the plan if:

(1) The plan provisions regarding such loans contain (at a minimum) an explicit authorization for the plan fiduciary responsible for investing plan assets to establish a participant loan program; and

(2) For participant loans granted or renewed on or after the last day of the first plan year beginning on or after January 1, 1989, the participant loan program which is contained in the plan or in a written document forming part of the plan includes, but need not be limited to, the following:

(i) The identity of the person or positions authorized to administer the participant loan program;

(ii) A procedure for applying for loans;

(iii) The basis on which loans will be approved or denied;

(iv) Limitations (if any) on the types and amounts of loans offered;

(v) The procedure under the program for determining a reasonable rate of interest;

(vi) The types of collateral which may secure a participant loan; and

(vii) The events constituting default and the steps that will be taken to preserve plan assets in the event of such default.

Example (1). Plan P authorizes the trustee to establish a participant loan program in accordance with section 408(b)(1) of the Act. Pursuant to this explicit authority, the trustee establishes a written program which contains all of the information required by § 2550.408b-1(d)(2). Loans made pursuant to this authorization and the written loan program will not fail under section 408(b)(1)(C) of the Act merely because the specific provisions regarding such loans are contained in a separate document forming part of the plan. The specific provisions describing the loan program, whether contained in the plan or in a written document forming part of a plan, do affect the rights and obligations of the participants and beneficiaries under the plan and, therefore, must in accordance with section 102(a)(1), be disclosed in the plan's summary plan description.

(e) *Reasonable Rate of Interest.* A loan will be considered to bear a reasonable rate of interest if such loan provides the plan with a return commensurate with the interest rates charged by persons in the business of lending money for loans which would be made under similar circumstances.

Example (1). Plan P makes a participant loan to A at the fixed interest rate of 8% for 5 years. The trustee, prior to making the loan, contacted two local banks to determine under what terms the banks would make a similar loan taking into account A's creditworthiness and the collateral offered. One bank would charge a variable rate of 10% adjusted monthly for a similar loan. The other bank would charge a fixed rate of 12% under similar circumstances. Under these facts, the loan to A would not bear a reasonable rate of interest because the loan did not provide P with a return commensurate with interest rates charged by persons in the business of lending money for loans which would be made under similar circumstances. As a result, the loan would fail to meet the requirements of section 408(b)(1)(D) and would not be covered by the relief provided by section 408(b)(1) of the Act.

Example (2). Pursuant to the provisions of plan P's participant loan program, T, the trustee of P, approves a loan to M, a participant and party in interest with respect to P. At the time of execution, the loan meets all of the requirements of section 408(b)(1) of the Act. The loan agreement provides that at the end of two years M must pay the remaining balance in full or the parties may renew for an additional two year period. At the end of the initial two year period, the parties agree to renew the loan for an additional two years. At the time of renewal, however, A fails to adjust the interest rate charged on the loan in order to reflect current economic conditions. As a result, the interest rate on the renewal fails to provide a "reasonable rate of interest" as required by

section 408(b)(1)(D) of the Act. Under such circumstances, the loan would not be exempt under section 408(b)(1) of the Act from the time of renewal.

Example (3). The documents governing plan P's participant loan program provide that loans must bear an interest rate no higher than the maximum interest rate permitted under State X's usury law. Pursuant to the loan program, P makes a participant loan to A, a plan participant, at a time when the interest rates charged by financial institutions in the community (not subject to the usury limit) for similar loans are higher than the usury limit. Under these circumstances, the loan would not bear a reasonable rate of interest because the loan does not provide P with a return commensurate with the interest rates charged by persons in the business of lending money under similar circumstances. In addition, participant loans that are artificially limited to the maximum usury ceiling then prevailing call into question the status of such loans under sections 403(c) and 404(a) where higher yielding comparable investment opportunities are available to the plan.

(f) *Adequate Security.* A loan will be considered to be adequately secured if the security posted for such loan is something in addition to and supporting a promise to pay, which is so pledged to the plan that it may be sold, foreclosed upon, or otherwise disposed of in default of repayment of the loan, the value and liquidity of which security is such that it may reasonably be anticipated that loss of principal or interest will not result from the loan. The adequacy of such security will be determined in light of the type and amount of security which would be required in the case of an otherwise identical transaction in a normal commercial setting between unrelated parties on arm's-length terms. A participant's vested accrued benefit under a plan may be used as security for a participant loan to the extent of the plan's ability to satisfy the participant's outstanding obligation in the event of default.

(g) *Effective date.* This section is effective January 1, 1975, except with respect to paragraph (d)(2) relating to specific plan provisions. Paragraph (d)(2) is effective for participant loans granted or renewed on or after the last day of the first plan year beginning on or after January 1, 1988.

Date signed: January 15, 1988.

David M. Walker,

Assistant Secretary for Pension and Welfare Benefits.

[FR Doc. 88-1141 Filed 1-21-88; 8:45 am]

BILLING CODE 4510-29-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201-11, 201-30, 201-31, and 201-32

Revision To Remove Additional Redundant and Nonregulatory Provisions

AGENCY: Information Resources Management Service, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This revision is the second of two amendments to streamline and simplify the FIRMR by immediately removing redundancies and nonregulatory provisions. The first amendment removed and updated provisions without change to regulatory requirements, policies, or procedures. This amendment consolidates provisions and removes additional provisions not requiring regulatory coverage. Although the amendment results in no policy revisions, some changes have been made to reporting requirements and procedures. The intent is to streamline and simplify provisions to facilitate useability.

DATE: Comments are due February 22, 1988.

ADDRESS: Comments should be submitted to the General Services Administration (KMPR), Project 87.47A, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Thomas, Regulations Branch, Office of Information Resources Management, telephone (202) 566-0194 or FTS, 566-0194. The full text of the Project 87.47A proposed rule is available upon request, by telephoning (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: (1) In Part 201-11, Competition, § 201-11.003 will be amended to remove redundant provisions on full and open competition as the basic procurement objective of the Government. Part § 201-11 will be further amended by consolidating in § 201-11.003 provisions from § 201-30.008 related to agency responsibilities for managing and planning for full and open competition in subsequent procurements.

(2) The proposed changes for Part 201-30, Management of ADP Resources, are explained in the following paragraphs.

(a) Section 201-30.007, paragraph (c), which contains provisions on the use of specifications, will be removed. Pertinent provisions from paragraph (c) will be consolidated in § 201-30.013 (subject: specifications).

(b) Section 201-30.007, paragraphs (d)(5) and (d)(6) will be removed as

factors to be considered in the determination of need and requirements analysis. Paragraph (d)(5) will be consolidated with § 201-30.009 (subject: analysis of alternatives for satisfying a requirement) since the provisions contained in that paragraph are more appropriate as factors to be considered when analyzing alternatives.

(c) In § 201-30.008, paragraph (a) will be revised to clarify use of the determination of need and requirements analysis in determining the system/item life and to remove provisions related to unplanned augmentations. Paragraph (d) will be revised to remove and consolidate in § 201-11.003, provisions related to agency responsibilities for managing and planning for full and open competition for subsequent procurements. A new paragraph (e) will be added to expand upon and clarify provisions related to unplanned augmentations and the need for a new system/item life.

(d) In § 201-30.009, paragraph (a) will be revised to remove the cross-reference to § 201-16.002 and paragraph (b) will be revised to remove the cross-reference to § 201-30.009-2(a). Paragraph (a)(2) will be revised to remove and consolidate in § 201-31.001, information related to the requirements of OMB Circular A-130 when sharing ADP resources. A new paragraph (a)(3) will be added to include provisions removed from § 201-30.007 (see paragraph 2b).

(e) In § 201-30.013, paragraph (a) will be revised to remove the parenthetical listing of responsible sources for obtaining full and open competition and paragraph (b) will be revised to remove the cross-reference to § 201-11.002-1. Paragraph (a) will also be revised to include provisions removed from § 201-30.007 (see paragraph 2a).

(3) The proposed changes for Part 201-31, Sharing of ADP Resources, are explained in the following paragraphs.

(a) Section 201-31.001 will be revised to include provisions removed from § 201-30.009 (see paragraph 2d).

(b) Section 201-31.006, paragraph (b) requiring agencies to report to GSA on services obtained from commercial sources will be removed.

(4) The proposed changes in Part 201-32, Contracting for ADP Resources, are explained in the following paragraphs.

(a) Section 201-32.103, requiring agencies to report to GSA when contracting for major system acquisitions under OMB Circular A-109 will be removed.

(b) Section 201-32.106, paragraph (a) serving to cross-reference FAR provisions on synopsis will be removed.

(c) In § 201-32.206, paragraphs (g)(2)(iii)(A) through (g)(2)(iii)(C) will be removed. These paragraphs provide special procedures for issuing solicitations when the results of a schedule order synopsis indicates that ordering from a GSA nonmandatory ADP schedule may not result in the lowest overall cost alternative to the Government.

(5) The General Services Administration (GSA) has determined that the proposed rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Governmentwide management regulation that will have little or no net cost effect on society. The rule is therefore not likely to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 41 CFR Parts 201-11, 201-30, 201-31, and 201-32

Information resources activities, Competition.

Dated: December 31, 1987.

Francis A. McDonough,

Deputy Commissioner for Federal Information Resources Management.

[FR Doc. 88-1187-Filed 1-21-88; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1336

Administration for Native Americans

AGENCY: Administration for Native Americans (ANA), Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS).

ACTION: Notice of intent to develop regulations and request for comment.

SUMMARY: The Administration for Native Americans (ANA) announces that it plans to amend its regulations at 45 CFR Part 1336 to implement a new requirement in the Native American Programs Act, as amended. This Act now establishes a 5-year demonstration program to manage a revolving loan fund to promote economic development for Native Hawaiians.

ANA requests comments from the public, and particularly from appropriate agencies of the State of Hawaii and community-based Native Hawaiian organizations, on all aspects of establishing such a revolving loan fund.

DATE: Comments are requested by February 28, 1988.

ADDRESS: Comments in writing should be addressed and submitted to:

William Lynn Engles, Commissioner,
Administration for Native Americans,
300 Independence Avenue, SW., Room
5300, Washington, DC 20201,
Attention: Jan Phalen.

FOR FURTHER INFORMATION CONTACT:
Jan Phalen or Martin Koenig, ANA, (202)
245-7714.

SUPPLEMENTARY INFORMATION: The Native American Programs Act was reauthorized and amended by Pub. L. 100-175 on November 29, 1987.

One new provision of this legislation, section 803A, requires the Secretary to award grants to one agency of the State of Hawaii or to one community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians. These grants will fund a 5-year demonstration project in the State of Hawaii to establish a revolving loan fund. The purpose of the loan fund is to make loans to Native Hawaiian organizations and individual Native Hawaiians in order to promote economic development in the State of Hawaii.

The statute specifies several requirements and conditions the prospective grantee must meet in administering the loan fund. ANA plans to propose regulations that closely follow the statutory provisions.

Section 803A also requires that the Department consult with appropriate agencies of the State of Hawaii and community-based Native Hawaiian organizations in the development of these regulations. ANA solicits and will consider all comments, suggestions, and recommendations that will assist in implementing these requirements. Comments are requested by February 28 as section 803A requires that regulations be published by the end of March.

(Catalog of Federal Domestic Assistance Program No. 13.612: Native American Programs—Financial Assistance Grants)

Date: January 15, 1988.

William Lynn Engles,
Commissioner, Administration for Native Americans.

[FR Doc. 88-1202 Filed 1-21-88; 8:45 am]

BILLING CODE 4130-01-M

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 87-598, RM-5801]

Radio Broadcasting Services; Camden, AR**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.**SUMMARY:** This document requests comments on a petition filed on behalf of KJWH, Inc., which seeks the allotment of Channel 283A to Camden, Arkansas, as that community's third local FM service.**DATES:** Comments must be filed on or before March 7, 1988, and reply comments on or before March 22, 1988.**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Eugene T. Smith, Esq., Law Offices of Eugene T. Smith, 715 G St. SE., Washington, DC 20003.**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner, Mass Media Bureau (202) 634-6530.**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-598, adopted December 14, 1987, and released January 14, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-1220 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No.87-595, RM-5857]

Radio Broadcasting Services; Beloit, KS**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.**SUMMARY:** This document requests comments on a petition by Solomon Valley Broadcasting, Inc., licensee of Station KVSF-FM, Channel 288A, Beloit, Kansas, proposing to modify its license from Class A facilities to Class C2 facilities operating on the same Channel 288.**DATES:** Comments must be filed on or before March 7, 1988, and reply comments on or before March 22, 1988.**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Charles K. Frodsham, President, Solomon Valley Broadcasting, Inc., Post Office Box 7, Beloit, Kansas 67420 (Petitioner).**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking, MM Docket No. 87-595, adopted December 14, 1987, and released January 14, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 88-1219 filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-596, RM-5975]

Radio Broadcasting Services; El Dorado, KS**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.**SUMMARY:** This document requests comments on a petition by KIKZ, Inc., proposing the substitution of FM Channel 256C2 for Channel 257A at El Dorado, Kansas and modification of its license for Station KSPG-FM to specify operation on Channel 256C2.**DATES:** Comments must be filed on or before March 7, 1988, and reply comments on or before March 22, 1988.**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Eugene T. Smith, Esq., 715 G Street SE., Washington, DC 20003 (Counsel to Petitioner).**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-596, adopted December 14, 1987, and released January 14, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 88-1218 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-594, RM-6100]

Radio Broadcasting Services;
Huntsville, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Don Werlinger, d/b/a The Broadcast Development Group, Inc. proposing the allotment of Channel 278A to Huntsville, Texas, as that community's second FM service. A site restriction of 2.3 kilometers (1.4 miles) southwest of the community is required.

DATES: Comments must be filed on or before March 7, 1988, and reply comments on or before March 22, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Don Werlinger, P.O. Box 1223, Lockhart, Texas 78644 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-594, adopted December 14, 1987, and released January 14, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M

Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mary N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 88-1217-Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 53, No. 14

Friday, January 22, 1988

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 COMMERCE

Bureau of the Census

Service Annual Survey; Determination

In accordance with Title 13, United States Code, sections 131, 182, 224, and 225, and due Notice of Consideration having been published November 10, 1987 (52 FR 217), I have determined that 1987 data on receipts and revenues for selected service industries are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data also apply to a variety of public and business needs. Selected service industries include hotels and motels; personal, business, automotive, and repair services; motion pictures and amusement services; health, legal, and other professional services; real estate services; arrangement of passenger transportation; and selected social services. This survey will yield 1987 estimates of receipts/revenues for these service industries, in addition to sources of receipts/revenues for nursing and personal care facilities, outpatient care facilities, personnel supply services, and arrangement of passenger transportation. Also, information on number of beds, discharges, and average length of stay per discharge for nursing and personal care facilities will be provided along with annual payroll and operating expenses, for firms engaged in the arrangement of passenger transportation.

The Census Bureau will require a selected sample of service firms in the United States (with payroll size determining the probability of selection) to report in the 1987 Service Annual Survey. The sample will provide, with measurable reliability, statistics on the above items for these service industries.

We will furnish report forms to the firms covered by this survey and will require their submission within 15 days after receipt. We will provide copies of

the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: January 15, 1988.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 88-1260 Filed 1-21-88; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 2-88]

General Foods Processing Plant (Food Products/Sugar) Dover, DE; Application for Subzone

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the State of Delaware, grantee of FTZ 99, through the Delaware Development Office, requesting special-purpose subzone status for the food products/sugar processing plant of General Foods Corporation (subsidiary of Philip Morris Companies, Inc.) located in Dover, Delaware, adjacent to the Wilmington Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 11, 1988.

The General Foods plant (126 acres) is located on West North Street in Dover. The facility employs 1,100 persons and is used to produce a wide variety of food products, including gelatin desserts and other dessert mixes, syrups, instant dry drink mixes, chocolate products and other sugar-containing products.

General Foods wishes to use zone procedures to avoid quota restrictions on foreign sugar. The company is aware that certain sugar-containing products would be subject to quotas, if imported. Zone procedures would also exempt the company from Customs duty payments on foreign sugar used in its export products, and would allow duty payments to be deferred on products entered for domestic consumption. The applicant indicates that zone procedures will help improve the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the

application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Edward A. Goggin, Deputy Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, Massachusetts 02110; and Lt. Colonel G. William Quinby, District Engineer, U.S. Army Engineer District Philadelphia, 2nd and Chestnut Streets, Philadelphia, Pennsylvania 19106.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 4, 1988.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, New Federal Building, Room 1218F, 844 King Street, Wilmington, Delaware 19801

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: January 15, 1988.

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 88-1310 Filed 1-21-88; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 1-88]

Proposed Foreign-Trade Zone; Vicksburg and Jackson, MS; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Vicksburg/Jackson Foreign-Trade Zone, Inc. (VJFTZ), a nonprofit corporation, requesting authority to establish a general-purpose foreign-trade zone at sites near Vicksburg and in Jackson, Mississippi, within and adjacent to the Vicksburg Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 11, 1988. VJFTZ is authorized to make the proposal under Section 59-3-35 of the Mississippi Code.

The proposal requests general-purpose zone status for two sites. Site 1 (26 acres) is located in the Emmitte W. Haining Industrial Center within the Port of Vicksburg Public Terminal on the Yazoo River Division Canal in Warren County, one mile northwest of Vicksburg. Initially, a 21,000 sq. ft. warehouse will be available for zone activity. Site 2 (27 acres) consists of two parcels at the Jackson Municipal Airport, in the City of Jackson. Parcel A (17 acres) includes a 36,000 sq. ft. air cargo building between the terminal access road and the west parallel taxiway. Parcel B (10 acres) is on airport property adjacent to Mississippi Highway 475.

The application contains evidence of the need for zone services in the Vicksburg and Jackson areas. Several firms have indicated an interest in using zone procedures for warehousing/distribution activity involving such products as commercial food equipment, electrical components, furniture, and wood products. Specific manufacturing approvals are not being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of John L. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Joel Mish, District Director, U.S. Customs Service, South Central Region, 423 Canal Street, New Orleans, Louisiana 70130; and Colonel Pat M. Stevens, IV, District Engineer, U.S. Army Engineer District Vicksburg, P.O. Box 60, Vicksburg, Mississippi 39180-0060.

As part of its investigation, the examiners committee will hold a public hearing on March 2, 1988, beginning at 10 a.m., in the Board of Directors Room, Vicksburg Chamber of Commerce, 2020 Mission 66, Vicksburg, Mississippi 39180.

Interested parties are invited to present their views at the hearing, leaving written copies of their testimony with the committee. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by February 26, 1988. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through April 4, 1988.

A copy of the application and accompanying exhibits will be available

during this time for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 328 Jackson Mall Office Center, 300 Woodrow Wilson Boulevard, Jackson, Mississippi 39213
Office of the Port Director, U.S. Customs Service, Harbor Project Road, Vicksburg, Mississippi 39180
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue NW., Washington, DC 20230

Dated: January 15, 1988.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 88-1311 Filed 1-21-88; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §§ 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No: 88-031. Applicant: Russell Research Center, ARS, USDA, P.O. Box 5677, Athens, GA 30613. Instrument: Single-Kernel Grain Moisture Tester. Manufacturer: Shizuoka Suki Co., Ltd., Japan. Intended Use: The instrument will be used to investigate the moisture content of corn kernels. The experiments to be conducted will consist of comparisons of tester indications and standard oven tests and other experimental methods. Application Received by Commissioner of Customs: November 10, 1987.

Docket No: 88-047. Applicant: Florida State University, Department of Physics, Tallahassee, FL 32306. Instrument: Arc Melter. Manufacturer: Edmund Buhler, West Germany. Intended Use: The instrument will be used to prepare alloys of high temperature refractory metal by means of arc melting. The

metals to be prepared are Zr, Nb, Mo, Hf, Ta, and W. The high temperature properties of thin films of these alloys will be studied as possible heaters in the preparation of superlattice structures in high temperature superconductors. Application Received by Commissioner of Customs: November 30, 1987.

Docket No: 88-048. Applicant: Carnegie-Mellon University, Mellon Institute, 4400 Fifth Avenue, Pittsburgh PA 15213. Instrument: Crystal Growth Furnace. Manufacturer: Crystalox, Ltd., United Kingdom. Intended Use: The instrument will be used to melt rare earth-transition metal alloys in inert atmosphere for processing the intermetallics. Application Received by Commissioner of Customs: December 1, 1987.

Docket No: 88-049. Applicant: University of Rochester, Purchasing Services, Coler House, Rochester, NY 14620. Instrument: Mass Spectrometer, Model VG Sector. Manufacturer: VG Isotopes, Ltd., United Kingdom. Intended Use: The instrument will be used for carrying out research on geological materials (minerals and rocks), particularly to measure precisely the isotopic ratios of several elements. The proposed research will be in the fields of geochemistry, geochronology, cosmochronology, and isotope geology. The materials to be studied will include terrestrial rocks, minerals, and extra-terrestrial samples of lunar rocks and meteorites. Application Received by Commissioner of Customs: December 1, 1987.

Docket No: 88-050. Applicant: State University of New York at Buffalo, Department of Oral Biology, 3435 Main Street, 109 Foster Hall, Buffalo, NY 14214. Instrument: Spectropolarimeter, Model J-600C. Manufacturer: JASCO, Inc., Japan. Intended Use: Studies of biological macromolecules isolated from the human oral cavity, including proteins, glycoproteins and oligosaccharides. The experiments conducted will involve measuring the effect(s) of salt, pH, solute concentration and solvent on the secondary structure of the biology macromolecules being tested. These studies will be done to make correlations between the structure and function of selected oral macromolecules. The instrument will be used for education purposes in the courses Independent Study and Degree Research in which clinical scientists are trained in the use of the equipment for the purpose of macromolecular structure determination and to obtain structural information concerning selected macromolecules for the student dissertations. Application Received by

Commissioner of Customs: December 1, 1987.

Docket No.: 88-051. Applicant: Texas A & M University, Department of Chemistry, College Station, TX 77843-3255. *Instrument:* Fluorescence Lifetime Spectrometer. *Manufacturer:* Edinburgh Instruments, Ltd., United Kingdom. *Intended Use:* The instrument will be used to provide luminescence probe techniques in studies of ion conducting polymers, particularly the two systems of: Nafion and Zirconium phenylsulphosphonate. *Application Received by Commissioner of Customs:* December 2, 1987.

Docket No.: 88-052. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. *Instrument:* Nuclear Magnetic Resonance (NMR) Spectrometer. *Manufacturer:* Bruker Analytik GmbH, West Germany. *Intended Use:* Studies of solutions of organic, inorganic, and biological molecules and solid state materials such as polymers, composites and geological samples providing rapid, nondestructive analysis of high sensitivity for this broad spectrum of materials. *Application Received by Commissioner of Customs:* December 2, 1987.

Docket No.: 88-053. Applicant: University of Georgia, Center for Advanced Ultrastructural Research, 151 Barrow Hall, Athens, GA 30602. *Instrument:* Electron Microscope, Model JEM-100CX. *Manufacturer:* JEOL, Japan. *Intended Use:* The instrument will be used to teach the theory and hands on use of electron microscopes in the Biological and Physical Sciences. *Application Received by Commissioner of Customs:* December 7, 1987.

Docket No.: 88-054. Applicant: The University of Texas Medical Branch, Galveston, TX 77550. *Instrument:* Inductively Coupled Plasma/Mass Spectrometer, Model VG PlasmaQuad. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used for analyses of biological fluids and tissues and environmental substances to provide information with regard to the trace metal and mineral composition of biological fluids and tissues in health and disease. In addition, the instrument will be used to provide education in the principles and practice of ICP/MS for a maximum of two graduate level students. *Application Received by Commissioner of Customs:* December 7, 1987.

Docket No.: 88-055. Applicant: National Bureau of Standards, Electricity Division, Building 220, Room B258 Gaithersburg, MD 20899. *Instrument:* Superconducting Magnet.

Manufacturer: Cryogenic Consultants, Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of the Quantum Hall Effect in an effort to develop it as a new resistance standard. *Application Received by Commissioner of Customs:* December 8, 1987.

Docket No.: 88-056. Applicant: Scott and White Memorial Hospital, Scott, Sherwood and Brindley Foundation, 2401 South 31st Street, Temple, TX 76508. *Instrument:* Lithotripter, Model HM4. *Manufacturer:* Dornier Medizentechnik, GmbH, West Germany. *Intended Use:* The instrument will be used for studies of kidney stones in investigations conducted to develop safer and more effective means of urinary stone treatment, and to assess the biological effects of shock waves on normal and abnormal tissues. In addition, the instrument will be used for expanding urological education in the treatment of urinary stone disease. *Application Received by Commissioner of Customs:* December 9, 1987.

Docket No.: 88-057. Applicant: University of Alabama at Birmingham, Department of Materials Engineering, University Station, Birmingham, AL 35294. *Instrument:* Electron Microscope, Model JEM-2000FX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for morphological, microstructural, and micro-area chemical composition analyses of individual samples of metals and alloys semiconductors, ceramics and glasses, polymers and composite materials. The objective of the investigations is complete characterization of the materials on a sub-micron scale as a function of the processing parameter to which materials will be exposed. *Application Received by Commissioner of Customs:* December 10, 1987.

Docket No.: 88-058. Applicant: The Pennsylvania State University, Department of Chemistry, University Park, PA 16802. *Instrument:* Langmuir Trough (Balance). *Manufacturer:* Joyce Loebel, United Kingdom. *Intended Use:* The instrument will be used to investigate the behavior of polymers in monofilament layers using langmuir monolayer techniques. *Application Received by Commissioner of Customs:* December 11, 1987.

Docket No.: 88-059. Applicant: Rutgers University, Procurement and Contracting, P.O. Box 1089, Piscataway, NJ 08854. *Instrument:* Preparative Quench and Stopped Flow Spectrometer, Model PQ/SF-53. *Manufacturer:* Hi Tech Ltd., United Kingdom. *Intended Use:* Intermediates in chemical and biochemical reactions will be generated within msec's and

their kinetic properties examined. Some will be aqueous buffer solutions of enzymes, and others nonaqueous solution (e.g. dimethylsulfoxide) of strongly basic compounds and heterocyclic compounds. The experiments conducted will consist of rapid mixing of reactants and monitoring by spectrometry/rapid mixing and quenching for other studies to determine the fundamental chemical mechanism of enzyme catalyzed reactions. *Application Received by Commissioner of Customs:* December 14, 1987.

Docket No.: 88-060. Applicant: Morehouse School of Medicine, 720 Westview Drive S.W., Atlanta, GA 30310-1495. *Instrument:* Electron Microscope, Model JEM 1200EX. *Manufacturer:* JEOL, Japan. *Intended Use:* Study of the ultrastructure and physiological phenomena of various cell types including lens cells, retinal pigment epithelial cells, amoebae, intestinal cells, bacteria and several other cultured cells. The instrument will also be used to train some postdoctoral fellows and medical students. *Application Received by Commissioner of Customs:* December 14, 1987.

Docket No.: 88-061. Applicant: University of California, San Diego, La Jolla, CA 92093. *Instrument:* Radio Direction Finder, Model R-7DH. *Manufacturer:* Orion Electronics, Ltd., Canada. *Intended Use:* The instrument will be used for locating transmitting deepwater wave buoys that have either broken their mooring or are in need of some repair. *Application Received by Commissioner of Customs:* December 14, 1987.

Docket No.: 88-062. Applicant: University of Alabama, 362 Administration Bldg., Mobile, AL 36688. *Instrument:* GC/Mass Spectrometer Data System, Model MM70-250. *Manufacturer:* VG Analytical, United Kingdom. *Intended Use:* The instrument will be used for investigating biological compounds in samples obtained from various biomedical research projects or synthetic compounds of biomedical interest. The investigations will be conducted to provide mass spectra and/or ion intensity information which are necessary to determine the nature and/or the amounts of the various materials which are introduced into the mass spectrometer. This information will be used to elucidate the biochemical, pathological, pharmacological or synthetic chemical problems being investigated. Instrumental and methodological developments will steadily be pursued. *Application*

Received by Commissioner of Customs: December 15, 1987.

Docket No.: 88-063. *Applicant:* Saint Louis University, Department of Earth and Atmospheric Sciences, P.O. Box 8099, Laclede Station, St. Louis, MO 63156. *Instrument:* Seismograph System, Model STS-IV/STS-IH. *Manufacturer:* G. Streckeisen AG, Switzerland. *Intended Use:* The instrument will be used for continuous monitoring of earthquake activity in the central United States and around the world. In addition, the instrument will be used for educational purposes in the course GEO-140-472: Seismological Instrumentation. Students will learn how to calibrate instruments and observe the data produced. *Application Received by Commissioner of Customs:* December 15, 1987.

Docket No.: 88-064. *Applicant:* University of Pennsylvania, School of Medicine, Department of Physiology, B402 Richards Bldg., 37th and Hamilton Walk, Philadelphia, PA 19104-6085. *Instrument:* Flash Photolysis Device. *Manufacturer:* Gert Rapp, West Germany. *Intended Use:* The instrument will be used for rapid initiation of contractions in smooth and striated muscles. *Application Received by Commissioner of Customs:* December 17, 1987.

Docket No.: 88-065. *Applicant:* University of Michigan, Department of Geological Sciences, C. C. Little Building, Ann Arbor, MI 48109. *Instrument:* Electron Microscope, Model CM125. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used to study a variety of solid state materials as synthesized by all authorized engineering and science research faculty, but with emphasis on natural geological materials. The latter are primarily shales and slates containing clays and other minerals that are studied as part of a research program. *Application Received by Commissioner of Customs:* December 24, 1987.

Docket No.: 88-066. *Applicant:* The Biomechanics Institute Inc. and Harvard School of Public Health, P.O. Box 429, Kenmore Station, Boston, MA 02215. *Instrument:* Mass Spectrometer, Model MGA 2000. *Manufacturer:* Airspec, Ltd., United Kingdom. *Intended Use:* The instrument will be used to track cyclic variations in intro-airway water vapor concentration within canine intrapulmonary airways during tidal breathing. Experiments will be conducted to determine the sites and magnitudes of respiratory heat and water exchange within canine airways as anesthetized, intubated dogs are mechanically ventilated with inspired

gas of various air temperature and water content, and with varying breathing pattern. In addition, the instrument will be used for post doctoral training providing sound research experience in a productive academic environment while preparing fellows for anticipated careers in academic medicine. *Application Received by Commissioner of Customs:* December 23, 1987.

Docket No.: 88-067. *Applicant:* Boston University, Department of Chemistry, 590 Commonwealth Avenue, Boston, MA 02215. *Instrument:* GC Mass Spectrometer/DS, Model MAT 90. *Manufacturer:* Finnigan Corp. West Germany. *Intended Use:* The instrument will be used for the analysis and identification of naturally occurring compounds, chemically synthesized materials and byproducts from these syntheses, and reaction intermediates. *Application Received by Commissioner of Customs:* December 24, 1987.

Docket No.: 88-068. *Applicant:* University of Illinois at Chicago, Purchasing Division, P.O. Box 6998, 833 South Wood Street, Chicago, IL 60680. *Instrument:* Gas Chromatograph Mass Spectrometer with Data System, Model MAT 90. *Manufacturer:* Finnigan MAT GmbH, West Germany. *Intended Use:* Mass analysis of a variety of peptides, prostaglandins, DNA-adducts, natural products and synthetic derivatives falling in these categories. The instrument will be used to obtain (1) nominal mass measurements of high molecular weight substances using fast atom bombardment techniques and (2) accurate mass measurements of unknown compounds. The instrument will also be used for educational purposes in general research courses in medicinal chemistry and pharmacognosy and mass spectrometry training. *Application Received by Commissioner of Customs:* December 23, 1987.

Docket No.: 88-069. *Applicant:* University of South Carolina, School of Medicine, Columbia, SC 29208. *Instrument:* Electron Microscope, Model JEM 100 CX. *Manufacturer:* JEOL, Japan. *Intended Use:* The instrument will be used to study the interaction between extracellular matrix components and the cell surface of muscle cells in normal and diseased animals. Other phenomena to be investigated are the origin and formation of foam cells in atherosclerosis, organization of calcium deposits in the pineal gland, and Herpes virus infection of lung and heart. The instrument will also be used for educational purposes in the course "Electron Microscopy in Pathology" which involves the theoretical and practical aspects of electron microscopy

in pathology, examination of tissue and cells by electron microscopy and the presentation of results. *Application Received by Commissioner of Customs:* December 23, 1987.

Docket No.: 88-070. *Applicant:* University of California, Department of Chemistry, 2405 Bowditch Street, Berkeley, CA 94720. *Instrument:* Turbomolecular Pump with Accessories, Model STP-300. *Manufacturer:* Seiko Seiki, Japan. *Intended Use:* The instrument will be used in studies of elementary chemical processes by improving the ultra high vacuum mass spectrometer's ability to handle rare gases and hydrocarbons thereby providing much more information about such processes as radical-radical reactions, the decomposition of energetic materials and combustion related work in oxygen atom reactions. *Application Received by Commissioner of Customs:* December 24, 1987.

Docket No.: 88-071. *Applicant:* Arizona State University, Center for Solid State Science, Tempe, AZ 85287-1704. *Instrument:* Electron Microscope, Model JEM-200 FX/SEG/SIP/DP. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used for studies of the atomic and chemical structure of metallic, covalent and ionic inorganic solids. High resolution imaging and microdiffraction methods will be used to determine the geometric distribution of atoms in the materials and electron energy loss and x-ray emission spectroscopy to determine local chemical composition and electronic structure. The instrument will be used in part for research in the courses MSE 556, 557, 558 and 559, graduate electron microscopy, materials science courses. *Application Received by Commissioner of Customs:* December 24, 1987.

Docket No.: 87-110R. *Applicant:* University of Miami, Coral Gables, FL 33124. *Instrument:* Stopped-Flow Spectrophotometer, Model SF-51 with Accessories. *Manufacturer:* Hi-Tech Scientific Instrument Division, United Kingdom. Original notice of this resubmitted application was published in the *Federal Register* of March 18, 1987.

Docket No.: 87-283R. *Applicant:* Naval Hospital San Diego, Park Boulevard, San Diego, CA 92134-5000. *Instrument:* Electron Microscope, Model EM 109T. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* The instrument will be used to train resident physicians in the application principles, operation, and interpretation of electron microscope determinations. *Original of this Resubmitted Application Was*

Received by Commissioner of Customs: September 8, 1987.

Docket No.: 86-081R. **Applicant:** Baptist Hospital Inc., 200 Church Street, Nashville, TN 37236. **Instrument:** Lithotripter. **Manufacturer:** Dornier Medical Systems Inc. West Germany. Original notice of this resubmitted application was published in the **Federal Register** of April 15, 1987.

Docket No.: 87-045R-2. **Applicant:** The University of Chicago, 5801 South Ellis Avenue, Chicago, IL 60637. **Instrument:** CD Spectropolarimeter, Model J-600A. **Manufacturer:** JASCO, Japan. Original notice of this resubmitted application was published in the **Federal Register** of December 12, 1986.

Docket No.: 87-267R. **Applicant:** Hawaii Institute of Geophysics, 2525 Correa Road, Honolulu, HI 96813. **Instrument:** Field Portable Remote Radar, Model Alphameter. **Manufacturer:** Alpha Nuclear Corporation, Canada. Original notice of this resubmitted application was published in the **Federal Register** of August 31, 1987.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-1312 Filed 1-21-88; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 70109-7242]

Reaffirmation of Federal Information Processing Standard 46, Data Encryption Standard

AGENCY: National Bureau of Standards, Commerce.

ACTION: The purpose of this notice is to announce that Federal Information Processing Standard (FIPS) 46, Data Encryption Standard, has been reaffirmed for five years.

SUMMARY: The Data Encryption Standard (DES), issued as Federal Information Processing Standard 46 on January 15, 1977, specified that a review would be performed by the National Bureau of Standards (NBS) within five years to assess its adequacy. The first review was completed in 1983 and the standard was reaffirmed for Federal government use (48 FR 41062 dated September 13, 1983). In 1987, NBS announced the second review of the standard (52 FR 7006 dated March 6, 1987), and solicited comments from Government, industry, and the public on the adequacy of the standard to protect computer data. Comments were requested on the costs and benefits of three alternatives:

reaffirmation of the standard for five years; withdrawal of the standard; revision of the applicability of the standard.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended that the Secretary approve the reaffirmation of FIPS 46 in its present form, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

Waivers to the provisions of FIPS 46 may be granted by the heads of agencies after the conditions and justification for the waiver have been coordinated with NBS. Waivers will be considered for devices by the National Security Agency as complying with its commercial COMSEC Endorsement Program when such devices offer equivalent cost/performance features when compared with devices conforming with FIPS 46.

DATE: After considering all available information and the comments and recommendations received, the Secretary of Commerce has reaffirmed the standard in its present form. The standard will be reviewed again beginning on or before January 1992.

ADDRESS: Interested parties may purchase copies of FIPS 46 from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone (703) 487-4650.

FOR FURTHER INFORMATION CONTACT: Dr. Dennis Branstad, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 975-2913.

Dated: January 13, 1988.

Ernest Ambler,

Director.

[FR Doc. 88-1201 Filed 1-21-88; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Marine Mammals; Permit Modification, Dr. Richard H. Lambertsen (P277A); Modification No. 2 to Permit No. 393

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (c) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 220.24 of the regulations governing endangered species (50 CFR Part 217-227), Scientific Research Permit No. 393 (47 FR 41413) issued to Dr. Richard H. Lambertsen, Department of Physiological Sciences, College of Veterinary Medicine, Box J-144, J. Hillis Miller Health Center, University of Florida, Gainesville, Florida 32610 on September 13, 1982, and modified on June 21, 1985 (50 FR 25733), is further modified as follows:

Section B.10 is replaced with:

10. This permit is valid with respect to the activities authorized herein until December 31, 1988.

This modification became effective on December 31, 1987. As required by the Endangered Species Act of 1973 issuance of this modification is based on a finding that such modification (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of the modification, and (3) will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This modification was issued in accordance with, and is subject to Parts 220-222 of Title 50 CFR of the National Marine Fisheries Service regulations governing endangered species permits (39 FR 41367), November 27, 1974.

Documents submitted in connection with the above modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC;

Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington, 98115;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger

Boulevard, St. Petersburg, Florida 33702; and Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dr. Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Services.

Date: January 14, 1988.

[FR Doc. 88-1280 Filed 1-21-88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; Sea-Arama, Inc. (P84D)

On November 4, 1987, notice was published in the *Federal Register* (52 FR 42331) that an application had been filed by Sea-Arama, Inc., P.O. Box 3068, Galveston, Texas 77532 for a permit to import two (2) false killer whales for the purpose of public display.

Notice is hereby given that on January 11, 1988 and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above importation subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

Date: January 14, 1988.

[FR Doc. 88-1281 Filed 1-21-88; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Defense Manufacturing Board

AGENCY: Department of Defense.

ACTION: Establishment of the Defense Manufacturing Board.

SUMMARY: Under the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Manufacturing Board has been

established as being in the public interest.

The Defense Manufacturing Board will advise the Secretary of Defense and other key officials in the Department of Defense (DoD) on the proper directions to take in maintaining technological leadership in the areas of manufacturing, industrial productivity, quality control, and the industrial base. The Board will be comprised of top-notch leaders from industry and the academic community who will help to assure that DoD can be instrumental in fostering a national environment in which there is a strong and vital U.S. technological and manufacturing base.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 15, 1988.

[FR Doc. 88-1242 Filed 1-21-88; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Wednesday, February 3, 1988.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Harold Summer, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices; millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5

U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 15, 1988.

[FR Doc. 88-1240 Filed 1-21-88; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group B (Microelectronics of the DoD Advisory Group on Electron Devices (AGED)) announces a closed session meeting.

DATE: The meeting will be held at 0900, Tuesday, 9 February 1988.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Project Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The Microelectronics area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 14, 1988.

[FR Doc. 88-1241 Filed 1-21-88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Defense Mapping Agency; Cancellation of Meeting

AGENCY: Department of Defense.

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Defense Mapping Agency for February 2-3, 1988 as published in the Federal Register (Vol. 52, No. 242, Page 47958, Thursday, December 17, 1987, FR Doc 87-28978.) has been cancelled.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 19, 1988.

[FR Doc. 88-1313 Filed 1-21-88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Strategic Arms Reduction Treaty (START) Verification Procedures; Advisory Committee Meetings

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Strategic Arms Reduction Treaty (START) Verification Procedures will meet in closed session on February 9, February 23, March 1-2, March 8-10, and April 5-7, 1988 at the Systems Planning Corporation, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will review verification aspects with regard to US programs, facilities, technologies and defense contractors and determine which START verification approaches are most appropriate from the acquisition viewpoint.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly

these meetings will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 19, 1988.

[FR Doc. 88-1314 Filed 1-21-88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Use of Commercial Components in Military Equipment; Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Use of Commercial Components in Military Equipment will meet in closed session on March 11, May 11, and June 17, 1988 at the TRW Corporation, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will receive classified briefings on military acquisition programs and systems availability and the affect of increased use of commercial items on force posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 19, 1988.

[FR Doc. 88-1315 Filed 1-21-88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Advanced Naval Warfare Concepts; Advisory Committee Meetings

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Advanced Naval Warfare Concepts will meet in closed session on February 16, March 22, April 12-13, and

May 17, 1988 at the Center for Naval Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will examine advanced naval warfare concepts and assess relevant technology, equipment, and modernization plans.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 19, 1988.

[FR Doc. 88-1315 Filed 1-21-88; 8:45 am]

BILLING CODE 3810-01-M

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given of a forthcoming meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the meeting is to review the responses to the recommendations, requests for information, and continuing concerns made by the Committee at the 1987 Fall Meeting; review the Subcommittee Issue Agenda; discuss current issues relevant to women in the Services; and finalize the program for the next semiannual meeting scheduled for April 24-28, 1988.

All meeting sessions will be open to the public.

DATE: February 8, 1988, 9:30 a.m.-5:00 p.m.

ADDRESS: SecDef Conference Room 3E869, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Ilona E. Prewitt, Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, Room 3D769,

Washington DC 20301-4000; telephone (202) 697-2122.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 19, 1988.

[FR Doc. 88-1317 Filed 1-21-88; 8:45 am]

BILLING CODE 3810-01-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD.

Date of Meeting: February 25, 1988.

Time: 0900-1600.

Place: Walter Reed Army Institute of Research, Washington, D.C.

Proposed Agenda: Results of Army Hepatitis B Immunization testing in Korea, Non-A/Non-B Hepatitis in Pakistan, review of service data on HIV/AIDS and consideration of related questions by the Board, Peruvian febrile illnesses.

2. This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, Room 667, Falls Church, Virginia 22041-3258.

Dated: January 12, 1988.

Robert A. Wells,

Col, USA, MSC, Executive Secretary.

[FR Doc. 88-1185 Filed 1-21-88; 8:45 am]

BILLING CODE 3710-08-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD.

Date of Meeting: February 25, 1988.

Time: 0830-1530.

Place: Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: Service Preventive Medicine Reports, Experiences with Lyme Disease in the Army and Navy, a model for loss of Military Job Performance by Underlying Neurological Impairment, AIDS Update, Leishmaniasis in Honduras,

Report on *ad hoc* meeting on Cardiovascular Screening of Soldiers Aged 40 and over and status of the Medical Followup Agency.

This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, Room 667, Falls Church, Virginia 22041-3258.

Dated: January 12, 1988.

Robert A. Wells,

Col, USA, MSC, Executive Secretary.

[FR Doc. 88-1186 Filed 1-21-88; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Period of October 12 Through December 18, 1987

During the period of October 12 through December 18, 1987, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are

available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. January 14, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

Harvin Petroleum Oil Co., Inc., Sumter, SC; KEE-0154, Reporting Requirements

Harvin Petroleum Oil Co., Inc. filed an Application for Exception from the requirement to complete and file Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." On December 15, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Triangle Gasoline Co. of Butler, Butler, PA; KEE-0140, Reporting Requirements

Triangle Gasoline Company of Butler filed an Application for Exception from the requirement to complete and file Form EIA-821, entitled "Annual Fuel Oil and Kerosene Sales Report." On December 15, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 88-1243 Filed 1-21-88; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 21 Through December 25, 1987

During the week of December 21 through December 25, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Natural Resources Defense Council, Inc., 12/23/87; KFA-0010

The Natural Resources Defense Council, Inc. (NRDC) filed an Appeal from a partial denial by the Director Programs, of a Request for Information submitted under the Freedom of Information Act. On review, the OHA adopted the determination by the Office of Policy and Program Operations that some of the material previously deleted under Exemptions 1 and 3 should now be released to NRDC because the

deletions either have been determined to be unclassified or have been revised in order to release the maximum information possible.

The Seattle Times, 12/22/87, KFA-0143

The Seattle Times filed an Appeal from a denial by the Freedom of Information Authorizing Official of the Bonneville Power Administration (BPA) of the Department of Energy (DOE) of a Request for Information which the firm submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, DOE found that portions of the documents requested contained material which was deliberative in nature and was properly withheld. However, the matter was remanded to the Authorizing Official to release all reasonably segregable factual material in the documents.

Refund Applications

Caudle Farms, Inc., et al., 12/21/87, RF272-2018, et al.

The Department of Energy (DOE) issued a Decision approving thirty Applications for Refund in the Crude Oil Subpart V refund proceedings. The thirty claimants were farmers who used the USDA formula to derive the number of gallons of petroleum products they used during the August 1973 to January 1981 period. Because the claimants relied on the end-user presumption, they were not required to demonstrate injury. A total of \$1,417 was approved in this Decision and Order.

Cranston Oil Service Company, Inc./ Ralph A. Pecchia et al., 12/23/87, RF276-22 et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed by end-users of No. 2 heating oil covered by a consent order with Cranston Oil Service Company Inc., and its successor-in-interest, Galego Oil Company. The Applications were evaluated in accordance with procedures set forth in *Cranston Oil Service Co.*, 14 DOE ¶ 85,499 (1986). The sum of the refunds approved in this Decision is \$524 representing \$457 in principal and \$67 in interest.

Dover Garage II, Inc., 12/22/87, RR270-23

The DOE issued a Decision and Order concerning the Motion for Modification filed by Dover Garage II, Inc. in the Surface Transporter refund proceeding established pursuant to the Settlement Agreement in the DOE Stripper Well Exemption Litigation. Dover's original Surface Transporter claim was denied on the grounds that Dover did not utilize the gasoline for surface transportation, but acted as a retailer of the product.

Dover's Motion for Modification included a copy of its agency agreement, which demonstrated that Dover did in fact operate the vehicles and was responsible for fuel costs. DOE therefore granted Dover's Motion and approved a volume of 5,888,805 gallons for Dover. The DOE will determine a per gallon refund amount and establish the amount of the company's refund after it completes its analysis of all Surface Transporter claims.

Duane Hageman, et al., 12/21/87, RF272-3435, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 35 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various agricultural activities, and each determined its claim either by consulting actual purchase records or by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the products it claimed and was therefore presumed injured by the DOE. The sum of the refunds granted in this Decision is \$1,679. All of the claimants will be eligible for additional refunds as additional crude oil overcharge funds become available.

E.E. Hinton, Jr., et al., 12/21/87, RF272-3121, et al.

The DOE issued a Decision and Order granting 33 Applications for Refund filed in connection with the Subpart V crude oil refund proceeding. Each applicant purchased refined petroleum products during the period August 19, 1973 through January 27, 1981, and used the products for various agricultural activities. Each applicant determined the volume of its fuel purchases by using the USDA estimate of the average annual petroleum product consumption per acre among the nation's farmers. As an end-user, each applicant was entitled to receive a refund of its full volumetric share. The sum of the refunds granted in this Decision is \$980.

Gulf Oil Corporation/Tenneco Oil Company, 12/21/87, RF40-3330

The DOE issued a Decision granting a refund from the Gulf Oil Corporation escrow account to Tenneco Oil Company, a purchaser of Gulf xylene. The applicant demonstrated its purchase volume and that as a purchaser of Gulf product it had been injured. A refund was granted on the full volumetric amount. The total refund approved was \$27,383, representing \$21,553 in principal and \$5,830 in interest.

Howard Oil Co., Inc./Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., 12/23/87, RF286-1 and RF286-3

The DOE issued a Decision and Order granting refunds to two public utilities which filed Applications for Refund from the fund which Howard Oil Co., Inc. remitted to the DOE pursuant to a Settlement Agreement. In accordance with the procedures set forth in *Howard Oil Co.*, 15 DOE ¶ 85,072 (1986), each firm certified that it would pass the refund through to its customers. The total amount of refunds approved in this decision was \$412,478, representing \$348,282 in principal and \$64,196 in interest.

Howard Oil Co., Inc./Defense Logistics Agency et al., 12/22/87, RF286-2 et al.

The DOE issued a Decision and Order granting refunds to four firms which filed Applications for Refund from the fund which Howard Oil Co., Inc. remitted to the DOE pursuant to a Settlement Agreement. The Applications were evaluated in accordance with the procedures set forth in *Howard Oil Co.*, 15 DOE ¶ 85,072 (1986). The total amount of refunds approved in this decision was \$307,458, representing \$252,817 in principal and \$54,641 in interest.

Pyrofax Gas Corporation/Columbia Hydrocarbon Corporation et al., 12/22/87, RF277-8 et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed by purchasers of Pyrofax propane. Each firm applied for a refund based on the procedures outlined in *Pyrofax Gas Corporation* 15 DOE ¶ 85,494 (1987) (*Pyrofax*), governing the disbursement of settlement funds received from Pyrofax pursuant to a March 23, 1981 Consent Order. The applications were submitted by two end users and two retailers claiming refunds under the small claims presumption. In *Pyrofax*, we found that all end users and retailers applying for small claims refunds were presumed to be injured. After examining the applications and supporting documentation submitted by the claimants, the DOE concluded that they should receive refunds totaling \$121,644 representing \$67,210 in principal and \$54,434 in accrued interest.

Royce v. Lee, et al., 12/23/87, RF272-1238, et al.

The DOE issued a Decision and Order granting 34 Applications for Refund filed in connection with the Subpart V crude oil refund proceeding. Each applicant purchased refined petroleum products during the period August 19, 1973

through January 27, 1981, and used the products for various agricultural activities. Each applicant determined the volume of its fuel purchases by using the USDA estimate of the average annual petroleum product consumption per acre among the nation's farmers. As an end-user, each applicant was entitled to receive a refund of its full volumetric share. The sum of the refunds granted in this Decision is \$1,482.

Stroehmann Bakeries, Inc. and Central Soya Company, Inc., 12/23/87, RF270-2498, et al

The Department of Energy (DOE) issued a Decision and Order concerning the Applications for Refund from the Surface Transporters Escrow and the Applications for Refund from the Subpart V crude oil refund proceeding filed by Stroehmann Bakeries, Inc. and Central Soya Company, Inc. In the Decision, the DOE found that when Stroehmann and Central Soya submitted Surface Transporter refund applications, both companies waived their rights to any claim to monies from the Subpart V crude oil refund proceeding. Accordingly, the DOE dismissed their Subpart V refund applications and proceeded with an analysis of their Surface Transporter claims. As Surface Transporters, Stroehmann will receive a refund based on purchases of 5,869,268 gallons and Central Soya will receive a refund based on purchases of 27,335,287 gallons of petroleum products. A per gallon refund amount and the total amount of both companies' refund will be determined after the DOE completes its analysis of all Surface Transporter claims.

Suburban Propane Gas Corporation/Johnson County Unified Wastewater District et al., 12/21/87, RF299-22 et al.

The DOE issued a Decision granting seven Applications for Refund from the Suburban Propane Gas Corporation escrow account filed by retailers and end-users of Suburban propane, butane, and natural gasoline during the period November 1, 1973 through October 31, 1978. Each applicant elected to apply for a refund based upon the presumptions set forth in *Suburban Propane Gas Corporation*, 16 DOE ¶ 85,382 (1987). The DOE granted refunds totalling \$3,930 (\$3,545 principal plus \$385 interest).

Virgil Heeren, et al, 12/21/87, RF272-707, et al.

The DOE issued a Decision and Order granting 32 Applications for Refund filed in the Subpart V crude oil refund proceeding. Since all the applicants were end-users of the products, their claims were granted without proof of

injury. The total amount of refunds granted in this Decision and Order was \$1,162.

Dismissals

The following submissions were dismissed:

Name	Case No.
Arkansas Electric Cooperatives Corp.	RF225-10092
City of New Bedford Water Dept.	RF225-8883
Gilchrist Marine Docks	RF225-2117
Lehigh Valley Railroad Co.	RF225-7654
State of Oregon Div. of State Lands	RF225-2625
The Hanford Educational Action League	KFA-0148
Williams & Connolly	KFA-0147

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

January 14, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 88-1244 Filed 1-21-88; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders;

Week of November 23 through November 27, 1987

During the week of November 23 through November 27, 1987 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Dr. Keith Consani, 11/25/87; KFA-0133

On October 27, 1987, Dr. Keith Consani filed a Freedom of Information Act (FOIA) Appeal from a determination issued to him by the Authorizing Official of the San Francisco Operations Office of the DOE on October 6, 1987. The Determination withheld certain documents pursuant to FOIA Exemptions 5 and 6. In considering the Appeal, the DOE found that the determination to withhold records related to correspondence between Dr.

Consani and the DOE pursuant to Exemptions 5 and 6, was consistent with the FOIA and the DOE's implementing regulations. However, the DOE ordered the Authorizing Official to review a telecommunication slip attached to a withheld document dated December 23, 1986 and promptly release the telecommunication slip if the Authorizing Official determines that it contains no exempt information. In all other respects, the Appeal was denied.

Interlocutory Order

Consolidated Edison Co., et al., State of California, 11/25/87; KRZ-0520 and KRZ-0521

Consolidated Edison and other end-users of petroleum products filed a joint Request to Participate in the liability stage of the enforcement action against the Kern Oil Refining Company, Case No. KRO-0520. In considering the request, the DOE found that each end-user's interest in the enforcement action is fully protected by its right to participate in the remedial stage when a Subpart V refund proceeding is convened. Accordingly, the request was denied.

The State of California also filed a Request to Participate in the liability stage of the Kern enforcement proceeding. The DOE found that the participation sought by California would assist the Office of Hearings and Appeals to explore matters in dispute. Accordingly, California's Request to Participate was granted.

Refund Applications

Conoco Inc./Fischer oil Co., et al., 11/25/87; RF220-263, et al.

The DOE issued a Decision and Order concerning seven Applications for Refund filed by purchasers of Conoco Inc. refined petroleum products. Each firm applied for a refund based on the procedures outlined in *Conoco Inc.*, 13 DOE ¶ 85,316 (1985), governing the disbursement of settlement funds received from Conoco pursuant to a 1982 Consent Order. All of the applicants are retailers of Conoco refined petroleum products who claimed refunds of less than \$5,000. Using the small claims presumption for retailers, we concluded that they were injured. After examining the applications and supporting documentation submitted by the claimants, the DOE concluded that they should receive refunds totaling \$2,549, representing \$1,795 in principal and \$754 in accrued interest.

Getty Oil Co./General Biscuit Brands, Inc., 11/23/87, RF265-922

The DOE issued a Decision and Order

approving an Application for Refund filed by General Biscuit Brands, Inc., an end-user of products covered by a consent order that the agency entered into with Getty Oil Company. The Application was evaluated in accordance with the procedures set forth in *Getty Oil Co.*, 15 DOE ¶ 85,064 (1986). Accordingly, General Biscuit will receive a refund of \$6,406, representing \$3,184 in principal and \$3,222 in interest.

Inland Partners, 11/24/87; RF270-2499 and RF271-239

The Department of Energy (DOE) issued a Decision and Order reinstating the applications submitted by Inland Partners (Inland) for a refund from the Rail and Water Transporters (RWT) Escrow and the Surface Transporters (ST) Escrow established as a result of the Stripper Well Settlement Agreement. Inland had applied for a refund from these escrows as the successor to U.S. corporations which were eligible for a refund for their respective purchases of petroleum products during the Settlement Period. The DOE had originally denied Inland's applications because it had previously received a refund from the Resellers Escrow as the successor to a separate corporation than those for which it sought RWT and ST refunds. The DOE reinstated Inland's claim based on the principles set forth in the case of *Union Pacific Railway Co.*, 16 DOE ¶ 85,526 (1987). In that case, the DOE determined that separately incorporated affiliates could file for refunds from different M.D.L. 378 Escrows. The corporations for which Inland sought an RWT refund were different than the corporation for which Inland sought an ST refund, therefore, the DOE found that Inland was eligible for a refund from both escrows. The DOE considered the merits of Inland's claim and determined that it be granted in full. The total number of gallons approved in this Decision for an RWT refund is \$57,457,123 and the total number of gallons approved for an ST refund is 1,006,832.

Keller Oil Co./Beck's Shell et al., 11/24/87, RF298-1 et al.

The DOE issued a Decision and Order concerning the Applications for Refund filed by 16 firms in the Keller Oil Company (Keller) special refund proceeding. Each firm was a retailer of Keller motor gasoline during the Keller consent order period. Following the procedures outlined in *Keller Oil Co.*, 16 DOE ¶ 85,147 (1987), each applicant demonstrated that it was eligible for a refund based on the \$5,000 small claims presumption. Accordingly, the firms

were granted refunds totaling \$12,612, representing \$8,134 in principal and \$4,478 in accrued interest.

Marathon Petroleum Co./Globe Oil Co., 11/25/87, RF250-2067, et al.

The DOE issued a Decision and Order concerning Applications for Refund filed in the name of Globe Oil Company by its current and previous owners. Each applicant sought a portion of the Marathon consent order funds based on product purchased by Globe, a Marathon retailer. The DOE denied the application filed by Emro Marketing Company, the current owner, because Emro is a wholly-owned subsidiary of Marathon. The DOE approved the application filed by R. Ellis Godshall, the previous owner, and granted Godshall a refund based on Marathon purchases made by Globe during the period in which he owned 100 percent of the firm. The total refund granted Godshall is \$17,418, representing \$15,401 in principal and \$2,017 in interest.

Mobil Oil Corp./Pennsylvania Power & Light Co., Tucson Electric Power Co., 11/23/87, RF225-579, et al.

The DOE issued a Decision and Order granting two public utilities, Pennsylvania Power & Light Company and Tucson Electric Power Co. refunds from the Mobil Oil Corporation consent order fund. Both firms purchased No. 2 fuel oil directly from Mobil for use in the production of electricity and are thus considered to be end-users. Under the presumptions established in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985), an end-user who was directly supplied by Mobil is entitled to a refund equivalent to the amount as its documented purchase volumes times 100 percent of the per gallon volumetric refund amount. As public utilities, the two firms certified that they would pass any refund through to their customers, and stated that they would notify the appropriate regulatory agency of the receipt of refund money. The total amount of refunds approved in this Decision and Order is \$20,910 (\$16,948 principal plus \$3,962 interest).

Petro-Lewis Corp./Enterprise Products Co., 11/27/87, RR63-1

Enterprise Products Company filed a Motion for Reconsideration of a Decision and Order the DOE issued on April 5, 1985, seeking an increase in the amount of refund that it received in the Petro-Lewis refund proceeding. Enterprise argued that its purchase costs of the Petro-Lewis products should have included transportation and fractionation expenses that Enterprise incurred after the delivery of the products. The DOE denied Enterprise's request on the grounds that (1) the firm

failed to demonstrate that its transportation expense was significantly higher than that incurred by the average NGLP reseller in normal circumstances, and (2) the firm provided no information to substantiate the fractionation costs.

Standard Oil Co. (Indiana)/Georgia Coline Gasoline Corp./Georgia, 11/25/87, RQ251-389 and RQ2-390

The DOE issued a Decision and Order approving the second-stage refund applications filed by the State of Georgia in the Standard Oil Co. (Indiana) (Amoco II) and Coline Gasoline Corp. (Coline) refund proceedings. Georgia will use all its remaining Amoco II funds (\$70,000 plus interest) for an agricultural "no-till" program and all its Coline funds (\$999 plus interest) for the publication of several residential energy conservation pamphlets. In evaluating Georgia's plans, the DOE found that they would help conserve energy and provide restitutionary benefits to consumers who were injured by the oil overcharges during the period 1973-1981.

Standard Oil Co. (Indiana)/Idaho, 11/23/87, RM21-85

The DOE issued a Decision and Order approving a Motion for Modification submitted by the State of Idaho. In its Motion, Idaho indicated that it was unable to implement the Diesel Truck Fuel Efficiency Clinics and requested that it be permitted to reprogram the \$10,000 plus accrued interest previously approved for this program in *Standard Oil Company (Indiana)/Idaho*, 12 DOE ¶ 85,152 (1984). The State instead wishes to fund a series of small commercial diesel truck fuel efficiency clinics. The OHA determined that the State's motion be approved because the clinics will educate small commercial diesel truck drivers about methods of reducing their energy consumption and fuel costs.

Standard Oil Co. (Indiana)/South Dakota, 11/24/87, RM21-89 et al.

The DOE issued a Decision approving motions for modification and second-stage refund plans filed by the State of South Dakota. In its submission, South Dakota proposed to produce and air a documentary film on energy conservation in the State and to develop a series of "energy conservation information kits" on topics discussed in the film for distribution to South Dakota energy users. South Dakota also proposed to use \$16,454 of its second-stage refund monies to fund an Automatic Thermostat Set-Back Rebate Program. The DOE found that the film and information packets would promote energy conservation in the State and

that the Thermostat Rebate Program would provide financial incentives for energy conservation to homeowners and businesses. Accordingly, South Dakota was granted \$223,281 (\$202,983 principal plus \$20,298 interest) in Standard Oil Company (*Amoco II*) monies for the programs.

Dismissals

The following submissions were dismissed:

Name	Case No.
Erogn, Inc.	RF250-2220
Fox Bus Lines, Inc.	RF225-5349
Great Lakes Dredge & Dock Co.	RF225-7522
Harrisburg Steam Works, Ltd.	RF272-398
Henry Dubois & Sons, Co.	RF225-7521
Heng Star Gas Co.	RF225-6708
Natco Limited Partnership, Inc.	RF225-7523
NGL Supply, Inc.	RF220-487
R. Newman Machinery Movers, Inc.	RF225-302

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 14, 1988.

[FR Doc. 88-1245 Filed 1-21-88; 8:45 am]

BILLING CODE 6450-01-M

Floodplain/Wetlands Involvement Notification for Selected Rubble Landfill at the Los Alamos National Laboratory, New Mexico

AGENCY: Department of Energy.

ACTION: Floodplain/wetlands involvement notification.

SUMMARY: The Department of Energy (DOE) proposes to construct and operate a selected rubble landfill in Sandia Canyon at the Los Alamos National Laboratory (LANL). Pursuant to the regulations of 10 CFR Part 1022 (DOE's "Compliance with Floodplains/Wetlands Environmental Review Requirements"), the DOE has determined this action would involve activities within a floodplain/wetlands area, and, therefore, the following notice is submitted for public review and comment.

DATES: February 8, 1988.

ADDRESS: Address comments or requests to the Albuquerque Operations

Office, Department of Energy, P.O. Box 5400, Albuquerque, New Mexico 87115. All comments should refer to the project by title.

FOR FURTHER INFORMATION CONTACT:

Harold E. Valencia, Area Manager, Los Alamos Area Office, Department of Energy, Los Alamos, New Mexico 87544, (505) 667-5105.

SUPPLEMENTARY INFORMATION:

I. Project Description

The Los Alamos National Laboratory proposes to construct and operate a selected rubble landfill within a floodplain/wetlands area at Los Alamos National Laboratory. The purpose of the landfill is to provide space to dispose of non-biodegradable construction rubble as the current landfill site is non-expandable, and the expected life of the landfill dictates the need for a new site.

The proposed landfill will be located in the head of Sandia Canyon approximately 0.1 mile south of East Jemez Road. It will be an extension of the present Los Alamos County sanitary landfill. The landfill will occupy an area approximately 2.5 acres in size. Once the proposed site has been filled, it will be compacted and leveled to the existing grade to allow future expansion of Laboratory facilities. The characteristics of the local terrain and the need for future facility expansion were factors used in determining the size and the location of the proposed landfill. Once this proposed site has been filled, a new site would be selected using similar selection criteria. No building facilities will be needed to complete the proposed landfill project. A road to the site will be constructed by extending the access road to the present sanitary landfill. Materials to be buried at the site are defined as solid waste or excavated materials from laboratory construction operations that have been culled of organic, hazardous, or other degradable or deformable materials. No materials that would lead to subsidence of the fill over an extended period or impact the air or water quality of the landfill site will be allowed.

Approximately 85% of the volume needed for the proposed landfill is readily available in the immediate area.

II. Floodplain/Wetlands Effects

Sandia Canyon has a seven-to-eight acre marsh and a perennial stream filled by snowmelt, seasonal storms and effluent releases. The area meets the criteria for floodplain/wetlands as described in Executive Orders 11990 and 11988. The proposed location of the landfill is in the head of a canyon typical in terrain of most of the canyons

dissecting the Laboratory, i.e., shallow soils underlain by bedrock. The canyons generally have insufficient streamflow to maintain year-round surface flow. Sandia Canyon, however, has perennial base flow primarily because of up-canyon effluent releases from a steam plant and a sewage treatment plant. There is also an indication that portions of the canyon below the site may prehistorically have been a small marsh which has been considerably extended because of increased surface runoff from parking lots, roads and effluent releases.

The primary plant community types within the canyon are consistent with ponderosa pine and marshland communities of the surrounding area. This project will require little removal of existing vegetation. Areas disturbed by construction will be reseeded by native grasses, shrubs, and trees in consultation with the Los Alamos National Laboratory-U.S. Forest Service Liaison Officer. In addition to reseeding areas to minimize sheet erosion, structural measures such as rock rip-rap surfacing, gravel surfacing, and earth berm construction will be done. Landfill operations may temporarily increase sediment transport, but this activity is not expected to permanently alter the marsh.

A hydrological analysis performed by the Los Alamos National Laboratory has established drainage patterns to Sandia Canyon. The object of this analysis was to size a closed-conduit or open channel drainage structure that would have sufficient capacity to convey the runoff from a 100-year storm through the reach of Sandia Canyon adjacent to the landfill operation. The estimated design flow is 339 cubic feet per second (cfs) at the head of the canyon, which would be handled by the placement of a 400 foot long, seven-foot diameter culvert. The culvert would serve the two-fold purpose of diverting floodwaters, and maintaining stream flow under normal conditions to protect the marsh.

III. Alternatives

Placement of a selected rubble landfill at Los Alamos National Laboratory is limited by the availability of land, space requirements, archaeological resources, drainage, accessibility, and aesthetics. Although several sites were considered, the proposed site is adjacent to an operating sanitary landfill which allows for easy access and provides for cost-effective burial of rubble for up to five years. In addition, this location will provide valuable space for location of new facilities. Streamflow within the proposed site and the integrity of the marsh below the site can be maintained

by means of the seven-foot diameter culvert. The present location of the Laboratory rubble landfill is not expandable because of the presence of adjacent buildings and an airport; thus, making a no-action alternative inoperable.

Date: January 15, 1988.

Troy E. Wade II,

Acting Assistant Secretary, Defense Programs, Department of Energy.

[FR Doc. 88-1335 Filed 1-21-88; 8:45 am]

BILLING CODE 6450-01-M

Intent To Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings for the Superconducting Super Collider

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) proposes to build and operate a Superconducting Super Collider (SSC) accelerator for the study of high energy particle physics. DOE announced its intent to prepare an Environmental Impact Statement (EIS) in accordance with section 102(2)(C) of the National Environmental Policy Act (NEPA) on the siting, construction, operation, and decommissioning of the SSC in an Advanced Notice of Intent published in the *Federal Register* (52 FR 16304, May 4, 1987). The purpose of this Notice of Intent (NOI) is to invite public participation in the process which the DOE will follow to comply with the NEPA and to solicit further public comment on the proposed scope and content of the EIS. Today's notice repeats pertinent information provided in the May 4 notice and provides additional information developed since its publication. The site for the SSC has not been determined. However, DOE has announced the list of best qualified sites which, consistent with the approach defined in the Advanced Notice of Intent, comprises the reasonable siting alternatives that will be evaluated in detail in the EIS. In alphabetical order, the best qualified sites are:

Arizona/Maricopa

Colorado

Illinois

Michigan/Stockbridge

North Carolina

Tennessee

Texas/Dallas-Fort Worth

DATES: Written comments or suggestions to assist DOE in identifying significant issues to be covered in the EIS will be considered in preparing the draft EIS and should be submitted by

March 15, 1988, to Dr. Wilmot Hess at the address listed below. Written comments post-marked after March 15, 1988, will be considered to the degree practicable.

The DOE will also hold public scoping meetings to receive oral comments. Locations, dates, and times for the scoping meetings are provided in the section of this notice titled

SUPPLEMENTARY INFORMATION.

ADDRESS: Written comments or suggestions on the scope and content of the EIS should be addressed as follows: SSC EIS SCOPING, Dr. Wilmot Hess, Chairman, SSC Site Task Force, ER-65, GTN, Office of Energy Research, U.S. Department of Energy, Washington, DC 20545.

Interested parties who do not wish to submit comments or suggestions at this time but would like to receive a copy of the draft EIS for review and comment also should notify Dr. Wilmot Hess.

FOR FURTHER INFORMATION CONTACT: General information on the procedures followed by DOE in complying with the requirements of NEPA may be obtained from: Office of NEPA Project Assistance, Office of the Assistant Secretary for Environment, Safety and Health, Attn: Robert Strickler, EH-25, Room 3E-080 Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, Washington, DC 20585.

General information on the SSC project may be obtained from: Dr. Robert E. Diebold, Director, SSC Division, ER-24, F-337, GTN, Office of Energy Research, U.S. Department of Energy, Washington, DC 20545.

SUPPLEMENTARY INFORMATION:

Scoping

DOE invites interested agencies, organizations, and the general public to submit written comments or suggestions for consideration in connection with the preparation of the EIS by March 15, 1988. Public scoping meetings to receive oral comments will also be held as follows:

(1) Tempe, Arizona, on February 9, 1988, from 1 to 5:30 p.m. and from 7 to 10 p.m., at the Great Hall, Arizona State University College of Law, intersection of McAllister and Orange, Tempe, Arizona.

(2) Butner, North Carolina, on February 9, 1988, from 1 to 5:30 p.m. and from 7 to 10 p.m., at the Butner Public Safety Building, 611 Central Avenue, Butner, North Carolina.

(3) Murfreesboro, Tennessee, on February 12, 1988, from 1 to 5:30 p.m. and from 7 to 10 p.m., at the Tennessee Room of the James Union Building

Middle Tennessee State University, East Main Street, Murfreesboro, Tennessee.

(4) Fort Morgan, Colorado, on February 12, 1988, from 1 to 5:30 p.m. and from 7 to 10 p.m., at the Fort Morgan High School Auditorium, 709 East Riverview Avenue, Fort Morgan, Colorado.

(5) Waxahachie, Texas, on February 16, 1988, 1 to 5:30 p.m. and from 7 to 10 p.m., at the National Guard Armory, 628 North Grand Avenue, Waxahachie, Texas.

(6) Stockbridge, Michigan, on February 16, 1988, from 1 to 5:30 p.m. and from 7 to 10 p.m., at the Stockbridge High School, 416 North Clinton Street, Stockbridge, Michigan.

(7) Batavia, Illinois, on February 18, 1988, from 1 to 5:30 p.m. and from 7 to 10 p.m., at the auditorium at Fermi National Accelerator Laboratory. The main entrance to the Laboratory is at Kirk Road and Pine, batavia, Illinois.

Individual's desiring to comment orally at one of these meetings should notify Dr. Hess at the address above as soon as possible so that the Department may arrange a schedule for the presentations. Persons who have not submitted a request to speak in advance may register at the meetings if they wish to speak. Those who register at the meetings will be called on to present their comments as time permits. In order to assure that everyone who wishes to present oral comments has the opportunity to do so, five minutes will be allotted to individuals, and ten minutes will be allotted to individual's representing groups. Comments received at these scoping meetings will be considered in the preparation of the draft EIS. Transcripts of the scoping meetings will be prepared by the DOE and subsequently made available to members of the public along with other NEPA documents and major references used in the preparation of the EIS normal business hours at the DOE. Reading Rooms and local libraries identified in this Notice. Site specific information, including maps, will be available for inspection in the local libraries identified in this Notice and at the scoping meetings.

Upon completion of the draft EIS, its availability will be announced in the *Federal Register* and local news media, and public comments will be solicited. Comments received on the draft EIS will be considered in preparing the final EIS.

Conceptual Design

The SSC will be one of the largest scientific instruments ever considered. Its major feature will be a race-track shaped tunnel approximately 53 miles in

circumference. Two beams of protons will be accelerated in opposite directions to near the speed of light and then made to collide at energies of up to 40 trillion electron volts.

When completed in the mid-1990's, the surface structures will present the appearance of a research center having a central office building, an auditorium, and various support and industrial buildings configured in a campus arrangement. Some 3,000 men and women will be working at the SSC facility—scientists, engineers, technicians, and administrative staff—including an estimated 500 visiting scientists annually taking part in research projects.

The tunnel will be constructed with its centerline at least 35 ft. underground. Service areas will be located approximately every five miles, consisting of a cluster of surface buildings containing cryogenic refrigerators, helium compressors, power supplies, support facilities, and points of access to the tunnel. Midway between each of the service areas will be a small building enclosing an access shaft to the collider tunnel.

The conceptual design described above of the result of substantial research and development (R&D) for the SSC, which has formally initiated in 1983. The R&D was conducted at high energy physics laboratories and other institutions as a coordinated national effort under the guidance of the SSC Central Design Group (CDC) formed by the University Research Association, Inc., at the request of the Department of Energy (DOE). A detailed Reference Designs Study, completed in March 1984, established the basis feasibility of the SSC, provided a preliminary cost estimate, and identified R&D needs. Following this, a significant amount of R&D was done to verify the assumptions of the Reference Designs Study. In 1986, the CDG completed the SSC Conceptual Design Report (CDR) which was reviewed by the DOE with the aid of independent experts. This process led to the conclusion that the project was technically feasible and that the cost and schedule estimates were acceptable. The total estimated cost for the project is \$4.4 billion in fiscal year 1988 dollars.

Site Selection Process

DOE issued an Invitation for Site Proposals on April 1, 1987. A pre-proposal conference was held in Washington, DC, on April 29, 1987. Forty-three proposals were received by September 2, 1987, and screened by DOE to determine whether they were qualified for further consideration

utilizing the qualification criteria listed in the Invitation for Site Proposals.

Thirty-six proposals were determined by DOE to be qualified for further consideration and were provided to the Super Collider Site Evaluation Committee (SSEC) of the National Academy of Sciences (NAS) and the National Academy of Engineering (NAE) in September 1987 for more detailed evaluation using the technical evaluation criteria and cost considerations described in the amended Invitation. One proposal was withdrawn from further consideration by its proposer. In December 1987, a report and recommended list of the best qualified sites was provided by the SSEC to the DOE. After reviewing and validating the SSEC report and recommendations, DOE announced the best qualified list of sites. Subsequent to the Academies report, the State of New York withdrew its Rochester site proposal and, accordingly, the Department will not consider this site further. The remaining best qualified sites comprise the reasonable siting alternatives which will be evaluated in detail in the EIS. DOE will conduct further analyses of the best qualified sites using the technical evaluation criteria and cost considerations contained in the Invitation. No sooner than 30 days after the final EIS is distributed, the DOE will issue a Record of Decision (ROD) announcing the selected site. The ROD is expected in January 1989.

The NEPA Process

The DOE will comply with the NEPA process as outlined in the Council on Environmental Quality's "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act" (40 CFR Parts 1500 through 1508) and the DOE's Guidelines for "Compliance with the National Environmental Policy Act" (52 FR 47662, December 15, 1987).

The DOE issued an Advanced Notice of Intent May 4, 1987, that announced its intent to prepare an EIS and encouraged early public involvement in the NEPA process. That notice solicited comments on the generic issues related to the project and EIS preparation. A preliminary EIS Implementation Plan, which recorded the results of that initial scoping, has been prepared.

Consistent with the approach identified in the Advanced Notice, the list of best qualified sites will be considered as the reasonable siting alternatives which will be evaluated in detail in the EIS.

A comment period for EIS scoping has been established to encourage public

involvement. The comment period will close on March 15, 1988. After the close of the public comment period, DOE will revise the preliminary EIS Implementation Plan as appropriate.

As preparation of the EIS continues, the preliminary findings of the EIS will be used by DOE in its identification of a preferred site for the SSC. The preferred site will be identified in the draft EIS which is scheduled for issuance in late August 1988.

There will be a 45-day public comment period on the draft EIS and public hearings to receive oral comments will be held approximately one month after distribution of the draft EIS. Availability of the draft EIS, the public comment period, and information on the public hearings will be announced in the *Federal Register* and in local news media at the time that the draft EIS is distributed.

DOE will revise the draft EIS in response to comments received during the comment period and plans to distribute the final EIS in December 1988. No sooner than 30 days after the distribution of the final EIS, DOE will issue its Record of Decision announcing the selected site for the SSC.

Alternatives

The DOE anticipates that this EIS will provide environmental information for project and site selection decisions. Alternatives under consideration are:

(1) Proposed action. Construct and operate the SSC at one of the sites identified as a best qualified site. The potential impacts of construction, operation and decommissioning of the SSC will be evaluated for each site, and detailed comparisons will be made.

Design alternatives to the SSC as presented in the Conceptual Design Report as appropriate will also be considered. The alternative sites are listed in alphabetical order by state as follows:

(a) *Arizona*—The proposed site is located approximately 30 miles southwest of Phoenix, Arizona in the southern portion of Maricopa County. Ninety-two percent of the tunnel would be constructed by tunneling techniques and 8 percent by cut and cover in unsaturated materials (principally fanglomerates, granite, and interbedded volcanic and sedimentary rocks). The entire tunnel would lie completely above the water table.

(b) *Colorado*—The proposed site is located approximately 65 miles northeast of Denver and includes portions of Adams, Morgan and Washington Counties. The entire tunnel would be constructed by tunneling

techniques in Pierre shale below the water table.

(c) *Illinois*—The proposed site is located approximately 40 miles west of Chicago in the northeastern portion of Illinois and includes portions of Kane, DuPage, and Kendall Counties. The entire tunnel would be constructed by tunneling techniques in dolomite below the water table.

(d) *Michigan*—The proposed site is located approximately 35 miles northwest of Ann Arbor in the southern portion of Michigan. It includes portions of Ingham and Jackson Counties. The entire tunnel would be constructed by tunneling techniques thru shales, limestone, dolomites, and sandstone below the water table.

(e) *North Carolina*—The proposed site is located in the north central portion of North Carolina, approximately 10 miles north of Durham. It includes portions of Person, Granville and Durham Counties. The entire tunnel would be constructed by tunneling techniques in interlayered metamorphosed volcanic and sedimentary rocks below the water table.

(f) *Tennessee*—The proposed site is in the central portion of Tennessee, approximately 30 miles southeast of Nashville. It includes portions of Bedford, Marshall, Rutherford and Williamson Counties. The entire tunnel would be constructed by tunneling techniques in a homogenous bed of limestone below the water table.

(g) *Texas*—The proposed site is located in the northeastern portion of Texas, approximately 25 miles south of Dallas and 35 miles southeast of Fort Worth. It is entirely within Ellis County. The entire tunnel would be constructed by tunneling techniques in chalk and marl above the water table.

(2) No Action. The no action alternative will consider the state of science without the SSC. Delay alternatives as appropriate will be evaluated in the EIS as a subset of no action.

Identification of Environmental Issues: The following issues associated with the construction and operation of the SSC are considered by the Department to be the most significant at this time. These issues will be analyzed in detail for each of the siting alternatives. This list is neither intended to be all inclusive, nor is it a predetermination of potential impacts. Additions or deletions to this list may occur as a result of the scoping process.

- (1) Socioeconomics,
- (2) Endangered Species,
- (3) Groundwater and Dewatering,
- (4) Radiological Health and Safety,
- (5) Hazardous and Toxic Materials,

- (6) Spoils Placement,
- (7) Decommissioning.

Issues that are not considered significant will be discussed in less detail or as appropriate to clearly distinguish impacts among alternatives.

Additional SSC Information: A variety of SSC technical reports, press releases, and design reports pertinent to the SSC project and other information which may be referenced in the EIS has been sent to a local library in the vicinity of each site and to DOE Public Reading Rooms at Operations offices near the sites. Members of the public may inspect these documents and other documents to be used in preparing the EIS during normal business hours. The locations where SSC related documents are available are as follows:

DOE Reading Rooms:

Freedom of Information Reading Room, Room 1E-190, U.S. DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585
 Public Reading Room, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439
 Public Reading Room, Oak Ridge Operations Office, Federal Building, P.O. Box E, Oak Ridge, TN 37831.

Public Libraries:

Arizona

Noble Science and Engineering Library, Arizona State University, Tempe, Arizona 85287-1506
 Phoenix Public Library, 12 E. McDowell Road, Tempe, Arizona 85004.

Colorado

Fort Morgan Public Library, 414 Main Street, Fort Morgan, Colorado 80701.

Illinois

Illinois SSC Project Office, c/o Illinois State Water Survey, 101 North Island Avenue, Batavia, Illinois 60510
 Aurora Public Library, 1 East Benton Street, Aurora, Illinois 60506
 St. Charles Public Library, 1 South 6th Avenue, St. Charles, Illinois 60185
 Kaneville Township Library, c/o Kaneville Civic Center, P.O. Box 5 Main Street and Harter Road, Kaneville, Illinois 60144.

Michigan

Ingham County Library System, Library Service Center, 407 North Cedar Street, Mason, Michigan 49201.

North Carolina

Richard H. Thornton Library, P.O. Box 339, Oxford, North Carolina 27565.

Tennessee

Linebaugh Public Library, 110 West College, Murfreesboro, Tennessee 37130

Tennessee Department of Economic and Community Development Library, 320 6th Avenue, North, 8th Floor—Rachel Jackson Building, Nashville, Tennessee 37219-5308.

Texas

Sims Library 515 West Main Street, Waxahachie, Texas 75165

Ennis Public Library, 501 West Ennis Avenue, Ennis, Texas 75119.

Dated in Washington, DC, this 20th day of January, 1988, for the United States Department of Energy.

Garry W. Gibbs,

Acting Assistant Secretary Environment, Safety and Health.

[FR Doc. 88-1410 Filed 1-21-88; 9:33 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 87-72-NG]

Colony Natural Gas Corp.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on December 16, 1987, of an application from Colony Natural Gas Corporation (Colony) for blanket authorization to import Canadian natural gas for short-term and spot market sales to customers in various markets in the United States. Authorization is requested to import up to 73 Bcf over a two-year term beginning on the date of the first delivery. Colony, a Texas corporation with its principal place of business in Midland, Texas, is a wholly owned subsidiary of Colony Energy Corporation. Colony proposes to purchase natural gas from various Canadian suppliers on a short-term basis, for its own account and for the account of others, for resale to local distribution companies, pipelines, and industrial and commercial end users in the United States. Colony intends to use existing pipeline facilities for the transportation of the proposed imports. Colony will advise the ERA of the date of first delivery of the import and submit quarterly reports giving details of individual transactions.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than February 22, 1988.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9622

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Colony requests consideration of its application on an expedited basis, including dispensing with the procedure of providing an opportunity for additional comments. An ERA decision on Colony's request for expedited treatment, particularly with respect to whether additional written comments or other procedures will be necessary in this case, will not be made until all responses to this notice have been received and evaluated.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding,

although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.s.t., February 22, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. A request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Colony's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., January 14, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-1336 Filed 1-21-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-180-000, et al.]

Florida Power Corp., et al.; Electric Rate and Corporate Regulation Filings

January 13, 1988.

Take notice that the following filings have been made with the Commission:

1. Florida Power Corporation

[Docket No. ER88-180-000]

Take notice that on January 6, 1988, Florida Power Corporation (Company) tendered for filing Supplemental Agreement No. 5, dated July 2, 1979 to the contract dated July 19, 1957 between the Southwestern Power Administration (SEPA) and the Company providing for bilateral exchange of services.

The Company states that Supplemental Agreement No. 5 was previously filed by SEPA under the Flood Control Act of 1944 in Docket No. EF80-3031. The Company recently became aware that the supplemental agreement should be separately filed as a rate schedule under the Federal Power Act. It requests the Commission to allow the supplemental agreement to become effective as of October 20, 1979, the effective date assigned in the proceeding under the Flood Control Act, and asks waiver of the notice requirements under the Federal Power Act to allow such effective date.

Comment date: January 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Idaho Power Company

[Docket No. ER88-181-000]

Take notice that on January 6, 1988, Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during November 1987, along with cost justification for the rate charged. This filing includes the following supplements:

Pacific Gas & Electric Co., Supplement No. 28

Los Angeles Water & Power Co.,
Supplement No. 38
Sierra Pacific Power Co., Supplement
No. 70
Utah Power & Light Co., Supplement No.
72

Comment date: January 28, 1988, in
accordance with Standard Paragraph E
at the end of this notice.

**3. Pacific Power & Light Company, an
assumed business name of PacifiCorp**

[Docket No. ER88-184-000]

Take notice that on January 7, 1988,
Pacific Power & Light Company (Pacific),
an assumed business name of
PacifiCorp tendered for filing Twelfth
Revised Sheet No. 5C (Index of
Purchasers), superseding Eleventh
Revised Sheet No. 5C, and Twelfth
Revised Sheet No. 5D, superseding
Eleventh Revised Sheet No. 5, of
Pacific's FERC Electric Tariff, Original
Volume No. 3 (Tariff); a Service
Agreement between Pacific and Cowlitz
County Public Utility District dated
December 1, 1987; and a Service
Agreement between Pacific and Public
Utility District No. 1 of Snohomish
County dated December 15, 1987.

Pacific states that the Service
Agreements provide for the sale of
nonfirm power and energy, in
accordance with the rates specified in
Service Schedule PPL-3 under Pacific's
Tariff.

Pacific requests, pursuant to Section
35.11 of the Commission's Regulations,
that a waiver of prior notice be granted
and that an effective date of November
1, 1987 be assigned to each of the
Service Agreements tendered for filing.

Copies of this filing have been
supplied to Cowlitz County Public
Utility District, Public Utility District No.
1 of Snohomish County and the
Washington Utilities and Transportation
Commission.

Comment date: January 28, 1988, in
accordance with Standard Paragraph E
at the end of this notice.

**4. Pacific Power & Light Company, an
Assumed Business Name of PacifiCorp**

[Docket No. ER88-185-000]

Take notice that on January 7, 1988,
Pacific Power & Light Company (Pacific),
an assumed business name of
PacifiCorp tendered for filing, in
accordance with § 35.30 of the
Commission's Regulations, Pacific's
Revised Appendix 1 for the state of
Oregon and Bonneville Power
Administration's (Bonneville)
Determination of Average System Cost
(ASC) for the state of Oregon
(Bonneville's Docket No. 5-A1-8702).
The Revised Appendix 1 calculates the

ASC for the state of Oregon applicable
to the exchange of power between
Bonneville and Pacific.

Pacific requests waiver of the
Commission's notice requirements to
permit this rate schedule to become
effective May 15, 1987, which it claims is
the date of commencement of service.

Copies of the filing were supplied to
Bonneville, the Public Utility
Commission of Oregon and Bonneville's
District Service Industrial Customers.

Comment date: January 28, 1988, in
accordance with Standard Paragraph E
at the end of this document.

5. Tampa Electric Company

[Docket No. ER88-182-000]

Take notice that on January 6, 1988,
Tampa Electric Company (Tampa
Electric) tendered for filing a Letter of
Commitment providing for the firm
interchange of 100 megawatts of
capacity and energy between Tampa
Electric and the City of Lakeland,
Florida. Tampa Electric states that the
Letter of Commitment is submitted as a
supplement to Service Schedule J
(negotiated interchange service) under
the existing agreement for interchange
service between Tampa Electric and
Lakeland, designated as Tampa
Electric's Rate Schedule FERC No. 21.

Tampa Electric proposes an effective
date of January 1, 1988 for the Letter of
Commitment, and therefore requests
waiver of the Commission's notice
requirements.

Copies of the filing have been served
on Lakeland and the Florida Public
Service Commission.

Comment date: January 28, 1988, in
accordance with Standard Paragraph E
at the end of this notice.

6. Tampa Electric Company

[Docket No. ER88-183-000]

Take notice that on January 6, 1988,
Tampa Electric Company (Tampa
Electric) tendered for filing a Letter of
Commitment providing for the firm
interchange of 250 megawatts of
capacity and energy between Tampa
Electric and Florida Power Corporation
(Florida Power). Tampa Electric states
that the Letter of Commitment is
submitted as a supplement to Service
Schedule J (negotiated interchange
service) under the existing contract for
interchange service between Tampa
Electric and Florida Power, designated
as Tampa Electric's Rate Schedule FPC
No. 6 and Florida Power's Rates
Schedule FPC No. 80. Tampa Electric's
filing includes a certificate of
concurrence submitted by Florida Power
in lieu of an independent filing.

Tampa Electric proposes an effective
date of January 1, 1988 for the Letter of

Commitment, and therefore requests
waiver of the Commission's notice
requirements.

Copies of the filing have been served
on Florida Power and the Florida Public
Service Commission.

Comment date: January 28, 1988, in
accordance with Standard Paragraph E
at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or
to protest said filing should file a motion
to intervene or protest with the Federal
Energy Regulatory Commission, 825
North Capitol Street NE., Washington,
DC 20426, in accordance with Rules 211
and 214 of the Commission's Rules of
Practice and Procedure (18 CFR 385.211
and 385.214). All such motions or
protests should be filed on or before the
comment date. Protests will be
considered by the Commission in
determining the appropriate action to be
taken, but will not serve to make
protestants parties to the proceeding.
Any person wishing to become a party
must file a motion to intervene. Copies
of this filing are on file with the
Commission and are available for public
inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1283 Filed 1-21-88; 8:45am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-139-000 et al.]

**Black Marlin Pipeline Company et al.;
Natural Gas Certificate Filings**

January 13, 1988.

Take notice that the following filings
have been made with the Commission:

1. Black Marlin Pipeline Company

[Docket No. CP88-139-000]

Take notice that on December 21,
1987, Black Marlin Pipeline Company
(Black Marlin), 1400 Smith Street,
Houston, Texas 77002, filed in Docket
No. CP88-139-000 an application
pursuant to Section 7(c) of the Natural
Gas requesting authorization for
transportation of natural gas, on an
interruptible basis, for Cities Service Oil
and Gas Corporation (Cities), all as
more fully set forth in the application
which is on file with the Commission
and open to public inspection.

Black Marlin seeks authorization to
transport volumes of natural gas owned
by Cities which are produced from
either or both High Island Block 199 (HI
Block 199), offshore Texas and
Galveston Area Block 144 (GALV Block
144), offshore Texas and delivered to

Black Marlin at an existing point or points of receipt located on Black Marlin's pipeline in High Island Block 171 (HI Block 171), offshore Texas and Galveston Area Block 99 (GALV Block 99), offshore Texas. Black Marlin states that it would receive, transport and deliver, on an interruptible basis, pursuant to proposed Rate Schedule T-4, a daily contract quantity of up to 25,000 Mcf of Cities' HI Block 199 gas and Cities' GALV Block 144 gas. It is stated that Cities would deliver or cause the delivery of its HI Block 199 gas to Black Marlin at HI Block 171 through existing facilities connecting the HI Block 199 reserves to HI Block 171, and that Cities would deliver or cause the delivery of its GALV Block 144 gas to Black Marlin through existing facilities connecting the GALV Block 144 reserves to GALV Block 99, and that Black Marlin would redeliver such gas at an existing point or points of delivery located near the terminus of Black Marlin's system in Texas City, Texas to Houston Pipe Line Company (HPL) for Cities' or its designee's account. HPL would subsequently transport such volumes of Cities' HI Block 199 gas and Cities' GALV Block 144 gas which it receives under Section 311 of the Natural Gas Policy Act of 1978 (NGPA), it is stated.

Black Marlin further states that in order to permit the receipt, transportation and delivery of volumes of gas on an interruptible basis for Cities as proposed by its application and in order to ensure that Black Marlin would be protected against adverse claims to or applicable to all gas delivered to it for transportation, it is proposing certain revisions to its FERC Gas Tariff, Original Volume No. 1: (1) In the General Terms and Conditions, Black Marlin would eliminate reference to Rate Schedule T-1 in Section 9 and provide for deliveries of Cities' HI Block 199 gas Cities' GALV Block 144 gas in the table of receipt and delivery points; and (2) Black Marlin would file a new Rate Schedule T-4 covering interruptible service pursuant to Section 7(c) of the Natural Gas Act and amend the Form of Service Agreement to include T-4 service.

Black Marlin proposes to render service to Cities at the proposed T-4 rate, which is 5.0 cents per Mcf of gas transported. Black Marlin states that the service agreement between it and Cities would specify an initial term of five years commencing on the date of first deliveries, and thereafter remain in force and effect unless terminated by either party. The service agreement

would also specify a daily contract quantity of up to 25,000 Mcf, it is stated.

Comment date: February 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

2. Black Marlin Pipeline Company

[Docket No. CP88-140-000]

Take notice that on December 21, 1987, Black Marlin Pipeline Company (Black Marlin), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP88-140-000 an application pursuant to section 7(c) of the Natural Gas Act requesting authorization for transportation of natural gas for Brandywine Industrial Gas, Inc. (Brandywine), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Black Marlin seeks authorization to transport volumes of natural gas owned by Brandywine which are produced from either or both High Island Block 134 (HI Block 134), offshore Texas and delivered to Black Marlin at an existing point or points of receipt located on Black Marlin's pipeline in High Island Block 171 (HI Block 171), offshore Texas. Black Marlin states that it would receive, transport and deliver, pursuant to its Rate Schedule T-1, a daily contract quantity of up to 15,000 Mcf of Brandywine's HI Block 199 and HI Block 134 gas (subject to adjustment up to 20 percent within one year of the effective date of the services agreement) and additional volumes of such gas under the effective excess quantity provisions contained in Rate Schedule T-1. It is stated that Brandywine would deliver or cause the delivery of Brandywine's HI Block 199 and HI Block 134 gas to Black Marlin at HI Block 171 through existing or future facilities connecting the HI Block 199 reserves and the HI Block 134 reserves to HI Block 171, and that Black Marlin would redeliver such gas at an existing point or points of delivery located near the terminus of Black Marlin's system in Texas City, Texas to Houston Pipe Line Company (HPL) for Brandywine's or its designee's account. HPL would subsequently transport such volumes of Brandywine's HI Block 199 and HI Block 134 gas which it receives under section 311 of the Natural Gas Policy Act of 1978 (NGPA), it is stated.

Black Marlin further states that in order to permit the receipt, transportation and delivery of volumes of gas on an firm basis for Brandywine as proposed by its application, it is proposing certain revisions to its FERC Gas Tariff, Original Volume No. 1: (1) In Rate Schedule T-1 Black Marlin would provide for Brandywine's firm volumes

in the index of daily quantities to be utilized for billing under Section 3 of Rate Schedule T-1; and (2) in the General Terms and Conditions, Black Marlin would provide for deliveries of Brandywine's HI Block 199 and HI Block 134 gas in the table of receipt and delivery points.

Black Marlin proposes to render service to Brandywine at the currently effective T-1 rate, which is 5.0 cents per Mcf of daily contract quantity with an overrun charge during any month of 5.0 cents per Mcf of gas transported. Black Marlin states that the service agreement between it and Brandywine would specify an initial term of five years commencing on the date of first deliveries, and thereafter remain in force and effect unless terminated by either party. The service agreement would also specify a daily contract quantity of up to 15,000 Mcf, it is stated.

Comment date: February 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

3. Consolidated Gas Transmission Corporation

[Docket No. CP88-128-000]

Take notice that on December 11, 1987, Consolidated Gas Transmission Corporation (Consolidated) 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP88-128-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing increased firm natural gas services for Baltimore Gas and Electric Company (BG&E) and Washington Gas Light Company (WGL) and the construction of related facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Consolidated states that it was previously authorized to provide firm gas services to BG&E and WGL in an order issued on September 12, 1986, (36 FERC ¶ 61,273) in Docket Nos. CP85-756-000 *et al.* These authorizations permitted Consolidated to provide up to a maximum daily quantity of 60,000 dekatherms (dt) each under Consolidated's Rate Schedule CD, it is further explained. Consolidated notes that to facilitate the above services, the Commission also granted to Texas Eastern Transmission Corporation (TETCO) authorization to transport on behalf of Consolidated up to 120,000 dt, on a firm basis, to be delivered to Consolidated's system near Perulack, Pennsylvania and to construct approximately 21.63 miles of 36-inch loop. It is also noted that the Commission denied Columbia Gas

Transmission Corporation's (Columbia Gas) application in Docket No. CP86-454-000 to transport 60,000 dt on a firm basis for BG&E and WGL at the discounted transportation rate proposed therein and that Columbia Gas has appealed the Commission's determination in Docket No. CP86-454-000 to the United States Court of Appeals for the District of Columbia Circuit. As a result Consolidated's authorized gas sale services to BG&E and WGL have not yet commenced, it is stated.

By Docket No. CP88-128-000, Consolidated proposes to (1) increase the firm gas service from 60,000 dt to 100,000 dt to both BG&E and WGL; (2) construct and operate interconnections between Consolidated's existing pipeline No PL-1 and the facilities which would be constructed by BG&E and WGL at Tuscarora, Maryland and Leesburg, Virginia, respectively; and (3) waive its sales lateral policy.

For the proposed firm gas sales services, Consolidated would charge both customers the effective rate as set forth in Rate Schedule CD in its FERC Gas Tariff as required by the Commission's September 12, 1986, order in Docket No. CP85-756-000, it is stated. For firm transportation services, Consolidated would charge both customers the effective rate as set forth in Rate Schedule TF in its FERC Gas Tariff. Consolidated estimates that the total cost to construct the interconnections would be \$2,630,000 exclusive of filing fees. Consolidated's firm services to BG&E and WGL are proposed to continue for a primary term of twenty years.

Consolidated also indicates that in order to implement the proposed expanded services, TETCO would file an application with the Commission requesting authorization to render an upstream transportation service for Consolidated at the increased levels proposed herein and to construct and operate the additional looping facilities on TETCO's system in order to accommodate the proposed level of services. In addition, Consolidated explains that BG&E and WGL would be required to construct extensions of their distribution systems in order to connect with Consolidated's pipeline No. PL-1. Consolidated asserts that BG&E would construct 37 miles of 20-inch pipeline from its existing distribution system at Linden Church, Maryland to a point on Consolidated's pipeline No. PL-1 at Tuscarora, Maryland. Consolidated asserts that WGL would construct 13 miles of 24-inch pipeline from its existing distribution system at

Darnesville, Virginia to a point on Consolidated's pipeline No. PL-1 at Leesburg, Virginia. Consolidated explains that it would contribute up to \$6,500,000 each to BG&E and WGL for their respective extension projects.

Comment date: February 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

4. Great Lakes Gas Transmission Company

[Docket No. CP88-145-000]

Take notice that on December 24, 1987, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP88-145-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessary authorizing Great Lakes to transport natural gas, on a firm basis, for the account of ADA Congeneration (ADA), a Michigan Limited Partnership, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Lakes states that Hydro Engineering, Inc. (Hydro), a general partner of ADA, has requested that Great Lakes transport up to 7,000 Mcf per day of natural gas for ADA, from a point on the International Border between the United States and Canada, at Emerson, Manitoba, where the facilities of Great Lakes interconnect with the facilities of TransCanada Pipe Lines Limited, to a point where Great Lakes' facilities interconnect with those of ANR Pipeline Company (ANR) at Fortune Lake, Michigan. Great Lakes further states that the term of the proposed arrangement would commence on May 1, 1990, unless an earlier date is requested by ADA, and would end fifteen years thereafter. Great Lakes indicates that Hydro and Great Lakes entered into a Precedent Agreement (Agreement) dated September 20, 1987, which implemented these arrangements. Great Lakes further indicates that upon receipt of all regulatory approvals, a service agreement would be executed by Great Lakes and ADA. Great Lakes states that the service agreement would provide for a rate for the transportation service with a demand charge of \$2.022 per Mcf of contract quantity and a commodity charge of \$0.19289 per Mcf. Great Lakes further states that these charges would be adjusted to reflect the transportation components of the base tariff rates of Great Lakes' Rate Schedule CQ-2 in effect at the time of execution of the service agreement. Great Lakes indicates that no new

facilities would be required to provide the proposed service.

Great Lakes states that Hydro has entered into transportation arrangements with ANR for subsequent transportation to points of interconnection between the facilities of ANR and Michigan Consolidated Gas Company (MichCon) and with MichCon for transportation of the subject volumes of natural gas to a point of interconnection between the facilities of MichCon and ADA.

Comment date: February 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

5. MIGC, Inc.

[Docket No. CP88-147-000]

Take notice that on December 30, 1987, MIGC, Inc. (MIGC) 10701 Melody Drive, Denver, Colorado 80234, filed in Docket No. CP88-147-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a 1,000 horsepower (hp) compressor unit and related accessory facilities located at MIGC's Recluse Compressor Station in Campbell County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MIGC states that as a result of physical deterioration, its 1,000 hp compressor unit at the Recluse Compressor Station has become nonoperational and that it would not be economically advisable to attempt further repair of the unit. MIGC further states that a grant of the abandonment authorization requested will have no adverse impact on any of the services it presently performs or is authorized to perform due to MIGC's installation of replacement facilities pursuant to the authority granted under its blanket certificate.

Comment date: February 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

6. Southern Natural Gas Company

[Docket No. CP88-152-000]

Take notice that on December 31, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP88-152-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval authorizing the abandonment by Southern of the compressor units and appurtenant facilities located at its Perryville Compressor Station (Perryville) in Ouachita Parish, Louisiana, all as more fully set forth in the application which is

on file with the Commission and open to public inspection.

Southern proposes to abandon the compression and certain appurtenant facilities located at Perryville including, specifically, two 1,300-horsepower Worthington horizontal reciprocating compressor units, six 800-horsepower vertical Cooper Bessemer reciprocating compressor units, engine foundations, the building which houses the units, a warehouse, auxiliary building, and miscellaneous valves and piping. It is stated that Southern no longer operates the facilities at Perryville because it does not take any natural gas reserves from Monroe Field in Ouachita parish, Louisiana. It is stated that the subject compressor units are not required by Southern to compress the gas available to Southern on its Logansport and North Main Lines. Southern further states that abandonment of the facilities would have no effect on the salable capacity of its pipeline system. Accordingly, Southern submits that the abandonment of the facilities would enable Southern to reduce its operation and maintenance costs without resulting in any termination or deterioration of service to its customers.

Comment date: February 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

7. Southern Natural Gas Company South Georgia Natural Gas Company

[Docket No. CP88-132-000]

Take notice that on December 16, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, and South Georgia Natural Gas Company (South Georgia), P.O. Box 1279, Thomasville, Georgia 31792, filed in Docket No. CP88-132-000 an application pursuant to section 7 of the Natural Gas Act for a limited-term certificate of public convenience and necessity with pre-granted abandonment, authorizing the transportation of natural gas for Atlanta Gas Light Company (Atlanta), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport on an interruptible basis up to 20,000 MMBtu of gas per day for Atlanta, for a term expiring on October 31, 1988. Atlanta is purchasing the gas from SNG Trading Inc., Chevron U.S.A. Inc., Mobil Oil Company and Shell Offshore Inc.

Specifically, South Georgia has agreed to transport Atlanta's gas and to act as agent in arranging for the transportation of the gas through Southern's pipeline system, it is explained. It is further explained that South Georgia will cause

gas to be delivered to Southern for transportation at various existing points of its system and redelivery to South Georgia at existing interconnecting points between Southern's and South Georgia's facilities in Lee County, Alabama. The quantity redelivered would be an equivalent of gas less 3.25 percent of the volume transported for fuel use, it is stated.

It is further explained that Atlanta will cause gas to be delivered to South Georgia for transportation at the South Georgia Redelivery Point and to be delivered to Atlanta at Valdosta Meter Stations No. 1, 2 and 3 in Lowndes County, Georgia. South Georgia will redeliver an equivalent volume less 0.5 percent of the volume transported for fuel use, it is indicated.

Southern proposes to charge South Georgia each month following transportation rate:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to South Georgia does not exceed the daily contract demand of South Georgia, the transportation rate shall be 39.9 cents per MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to South Georgia exceeds the daily contract demand of South Georgia, the transportation rate for the excess volumes shall be 64.9 cents per MMBtu.

It is stated that South Georgia would pay Atlanta each month a transportation rate of 28.33 cents per MMBtu redelivered by South Georgia and reimburse South Georgia for all transportation and fuel charges and other costs South Georgia pays Southern.

In addition, Southern and South Georgia will collect the GRI surcharge, it is stated.

Applicants state that the proposed transportation arrangement will enable Atlanta to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition, Southern may obtain take-or-pay credit on the gas Atlanta will obtain from its suppliers.

Comment date: February 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

8. Tennessee Gas Pipeline Company

[Docket No. CP88-149-000]

Take notice that on December 31, 1987, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-149-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to reassign the maximum daily quantity of gas delivered to New York State Electric & Gas Corporation (NYSEG) at the existing Wallace Sales Meter Station, under the blanket certificate issued in Docket No. CP82-413-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes that NYSEG's Daily Quantity Limit at the Wallace Sales Meter Station be reassigned from 1,000 to 3,200 Dth to meet the needs of the Wallace franchise area. Tennessee states that the Daily Quantity Limit at the remaining NYSEG delivery points would not be changed.

Tennessee does not propose to increase or decrease the total daily and/or annual quantities that NYSEG is entitled to purchase from Tennessee. Tennessee explains that the reassignment is not prohibited by its current effective tariff. Tennessee further explains that the reassignment of daily quantities can be accomplished without detriment or disadvantage to any of Tennessee's other customers.

Comment date: February 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

9. K N Energy, Inc.

[Docket No. CP88-151-000]

Take notice that on December 31, 1987, K N Energy (K N), P.O. Box 15265, Lakewood, Colorado, 80215, filed in Docket No. CP88-151-000 a request pursuant to § 157.205(b) of the Regulations under the Natural Gas Act for permission and approval to abandon certain metering and regulating facilities, and service to certain direct-sales customers, under the certificate issued in Docket Nos. CP83-140-000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request with the Commission and open to public inspection.

K N proposes to abandon by removal the metering stations and appurtenant facilities which were installed to deliver natural gas to the following direct sales customers:

Name	Docket No.
Consolidated Blenders, Inc. (Stanton Co., NE)	CP71-143
Gothenberg Feed Products Co. (Lincoln Co., NE)	G-1857
Platte Valley Products, Inc. (Dawson Co., NE)	G-1180
Viking Alfalfa Products Co. (Knox Co., NE)	CP67-118
Western Alfalfa Corporation (Finney Co., KS)	CP70-228

K N states that deliveries to these customers have ceased and that each customer has notified K N that the facilities at the respective delivery point are no longer needed and has consented to the abandonment of these facilities by K N.

Comment date: February 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the

Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1284 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-15-035]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 15, 1988.

Take notice that Columbia Gas Transmission Corporation (Columbia), on January 11, 1988, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective as follows:

April 1, 1987

Second Revised Sheet No. 22
Second Revised Sheet No. 22A
Second Revised Sheet No. 22B
Second Revised Sheet No. 22C
Third Revised Sheet No. 22D
Third Revised Sheet No. 22E
First Revised Sheet No. 22E1
Second Revised Sheet No. 22G
Second Revised Sheet No. 22H
Second Revised Sheet No. 22I
Second Revised Sheet No. 22J
Second Revised Sheet No. 22K
Original Sheet No. 22K1
Second Revised Sheet No. 22L
Second Revised Sheet No. 22M
Second Revised Sheet No. 22N
Third Revised Sheet No. 22O
Third Revised Sheet No. 22P
First Revised Sheet No. 22P1
Second Revised Sheet No. 22R
Second Revised Sheet No. 22S
Second Revised Sheet No. 22T
Second Revised Sheet No. 22U
Second Revised Sheet No. 22V
First Revised Sheet No. 22W
First Revised Sheet No. 54A
First Revised Sheet No. 54B

November 1, 1987

Second Revised Sheet No. 22E2
Second Revised Sheet No. 22E3
Third Revised Sheet No. 22F

First Revised Sheet No. 22P2
Second Revised Sheet No. 22P3
Fourth Revised Sheet No. 22Q

Columbia states that the proposed changes were filed pursuant to Commission orders issued on June 18, 1987 and December 9, 1987 in this proceeding, and amend its open-access firm (FTS) and interruptible (ITS) transportation rate schedules to comply with these Commission orders.

Copies of the filing were served upon the persons on the official service list in this proceeding, wholesale customers, and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1285 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-14-035]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

January 15, 1988.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on January 11, 1988 tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective as follows:

April 1, 1987

Second Revised Sheet No. 157
Second Revised Sheet No. 158
Second Revised Sheet No. 159
Second Revised Sheet No. 160
Second Revised Sheet No. 164
Second Revised Sheet No. 165
Second Revised Sheet No. 166
Second Revised Sheet No. 167
Second Revised Sheet No. 168
Second Revised Sheet No. 169
Second Revised Sheet No. 170
Second Revised Sheet No. 171
Second Revised Sheet No. 172

Second Revised Sheet No. 173
 Second Revised Sheet No. 174
 Second Revised Sheet No. 196
 Second Revised Sheet No. 197
 Second Revised Sheet No. 198
 Second Revised Sheet No. 199
 Second Revised Sheet No. 204
 Second Revised Sheet No. 205
 Second Revised Sheet No. 206
 Second Revised Sheet No. 207
 Second Revised Sheet No. 208
 Second Revised Sheet No. 209
 Second Revised Sheet No. 210
 Second Revised Sheet No. 211
 Second Revised Sheet No. 212
 Second Revised Sheet No. 213
 Original Sheet No. 214
 Second Revised Sheet No. 233
 Second Revised Sheet No. 234
 Second Revised Sheet No. 235
 Second Revised Sheet No. 236
 Second Revised Sheet No. 240
 Second Revised Sheet No. 241
 Second Revised Sheet No. 242
 Second Revised Sheet No. 243
 Second Revised Sheet No. 244
 Second Revised Sheet No. 245
 Second Revised Sheet No. 246
 Second Revised Sheet No. 247
 Second Revised Sheet No. 248
 Second Revised Sheet No. 249
 Second Revised Sheet No. 250
 Second Revised Sheet No. 281
 Second Revised Sheet No. 282
 Second Revised Sheet No. 283
 Second Revised Sheet No. 284
 Second Revised Sheet No. 288
 Second Revised Sheet No. 289
 Second Revised Sheet No. 290
 Second Revised Sheet No. 291
 Second Revised Sheet No. 292
 Second Revised Sheet No. 293
 Second Revised Sheet No. 294
 Second Revised Sheet No. 295
 Second Revised Sheet No. 296
 Second Revised Sheet No. 297
 Second Revised Sheet No. 298

Effective November 1, 1987

Third Revised Sheet No. 161
 Third Revised Sheet No. 162
 First Revised Sheet No. 162A
 First Revised Sheet No. 162B
 Second Revised Sheet No. 162C
 Second Revised Sheet No. 162D
 First Revised Sheet No. 162E
 Third Revised Sheet No. 163
 Third Revised Sheet No. 200
 Third Revised Sheet No. 201
 First Revised Sheet No. 201A
 Second Revised Sheet No. 201B
 Second Revised Sheet No. 201C
 First Revised Sheet No. 201D
 Third Revised Sheet No. 202
 Second Revised Sheet No. 203
 Third Revised Sheet No. 237
 Third Revised Sheet No. 238
 First Revised Sheet No. 238A
 First Revised Sheet No. 238B

Second Revised Sheet No. 238C
 Second Revised Sheet No. 238D
 First Revised Sheet No. 238E
 Third Revised Sheet No. 239
 Third Revised Sheet No. 285
 Third Revised Sheet No. 286
 First Revised Sheet No. 286A
 First Revised Sheet No. 286B
 Second Revised Sheet No. 286C
 Second Revised Sheet No. 286D
 First Revised Sheet No. 286E
 Third Revised Sheet No. 287

Columbia Gulf states that the proposed changes were filed pursuant to Commission orders issued on June 18, 1987 and December 9, 1987 in this proceeding, and amend Columbia Gulf's open-access firm (FTS-1 and FTS-2) and interruptible (ITS-1 and ITS-2) transportation Rate Schedules to comply with these Commission orders.

Copies of the filing were served upon the persons on the Official service list in this proceeding, wholesale customers, and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1286 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-187-000]

Florida Power & Light Co.; Filing

January 15, 1988.

Take notice that on January 11, 1988, Florida Power & Light Company tendered for filing a Partial Requirements Service to the City of Lake Worth (Lake Worth) under Florida Power & Light Company's (FPL) FERC Electric Tariff, Second Revised Volume No. 1 that will be terminated.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed termination of service be made effective on February 20, 1988.

FPL states that at copy of the filing was served on the City of Lake Worth.

Any person desiring to be heard or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 29, 1988. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1287 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-135-000]

Natural Gas Pipeline Co. of America; Application

January 14, 1988.

Take notice that on December 18, 1987, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP88-135-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a portion of Applicant's sales service to an existing customer, Interstate Power Company (Interstate), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is asserted that Interstate requested a reduction in its contract demand by 9,500 Mcf/day to benefit one of its customers and later requested fifteen percent reduction in its contract demand or anything in excess of that amount up to 20,000 Mcf/day as provided by Section 284.10(c) of the Regulations.

It is stated that on October 26, 1986, in Docket No. RP87-72-000, Interstate filed a request for a rehearing of Applicant's order in Docket No. RP86-97-003, issued September 26, 1986, granting a limited term waiver of former Section 284.10(a)(1). It is further stated that the Commission denied the request for rehearing but undertook review of the complaint by Interstate that Interstate was not given the full 45 days after Applicant became subject to order No. 436 to nominate reductions. Applicant points out that in an order issued October 30, 1987, the Commission ordered Applicant to honor Interstate's

request for contract demand reduction of up to fifteen percent of Interstate's contract demand on September 4, 1986, to become effective 150 days from the date the 45-day nomination period ended.

Applicant also points out that on November 30, 1987, it filed a request for rehearing of the order issued in Docket No. RP87-72-000. Applicant maintains that if such request for rehearing is denied, a certificate filing under Section 7(b) of the Natural Gas Act is required for permission to abandon, in part, the sale of gas to Interstate. Therefore, Applicant proposes to reduce, by fifteen percent, the level of Interstate's firm sales contract quantity from 68,272 MMBtu per day to 58,031 MMBtu per day. It is stated that this reduction of 10,241 MMBtu per day would take effect upon approval by the Commission or such date established by the Commission in its consideration of this matter.

Applicant alleges that Interstate, in a letter dated November 30, 1987, indicates its intention to "discontinue payment on the 10,241 Mcf of contract demand and its equivalent monthly quantity entitlement" starting November 1987. Applicant states that it strongly objects to this action because Applicant believes that Interstate should not receive any adjusted billing until Applicant receives permission and approval of this partial abandonment from the Commission. Further, Applicant believes that Interstate is incorrect in adjusting its billing entitlements for its contract reduction.

Finally, Applicant states, as more fully described in its request for rehearing of the order issued in Docket No. RP87-72-000, Applicant does not agree with the Commission's finding that Interstate is entitled to a contract reduction. Therefore, Applicant concludes that it is making the instant proposal subject to Commission action on rehearing.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 4, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in

any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1238 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-188-000]

New England Power Co.; Notice of Filing

January 15, 1988.

Take notice that on January 12, 1988, New England Power Company (NEP) tendered for filing an executed amendment to the Service Agreement of the Town of Norwood, Massachusetts (Norwood) who receives all-requirements power service under NEP's FERC Electric Tariff, Original Volume No. 1.

NEP states that the amendment modifies the terms of NEP's service to Norwood in order to facilitate Norwood's receipt of the benefits of its allocation of power from the New York Power Authority. NEP requests waiver of the Commission's notice requirements so that the amendment may become effective, in accordance with its terms, May 1, 1987. As good cause for this request, NEP states that extensive negotiations delayed the timely filing of the amendments.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 29, 1988. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1239 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-168-000]

Pacific Gas and Electric Co.; Notice of Filing

January 15, 1988.

Take notice that on January 11, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing a supplement to its previous December 29, 1987 filing. PG&E states that "the Cancellation of Extension Agreement included in the previous filing mistakenly was worded such that it appeared PG&E was cancelling Rate Schedule FERC No. 53 when it correctly should have stated that PG&E was cancelling the four-party Extension Agreement between PG&E, the City and County of San Francisco, the Modesto Irrigation District and the Turlock Irrigation District."

PG&E states that copies of this filing have been served upon all parties affected by this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 29, 1988. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1290 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-3-001]

Sabine Pipe Line Co.; Proposed Changes in FERC Gas Tariff

January 15, 1988.

Take notice that Sabine Pipe Line Company (Sabine) on January 6, 1988 tendered for filing the following proposed change to its FERC Gas Tariff, First Revised Volume No. 1, to be effective November 1, 1987:

Fifth Revised Sheet No. 20

Sabine states that the listed tariff sheet sets forth the transportation rates and applicable tariff provisions required to place the rates into effect, applicable to the Annual Charge Adjustment, pursuant to the Commission's Regulations as set forth in Order No. 472 and 472-A issued May 29, 1987 and June 17, 1987, respectively.

Copies of the filing were served upon the Sabine customers, the Louisiana Department of Natural Resources and the Railroad Commission of Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 25, 1988. 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 Sabine's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1291 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-365-002]

Southern California Edison Co.; Filing

January 15, 1988.

Take notice that on January 7, 1988, Southern California Edison Company (Edison) tendered for filing pursuant to Commission Order dated October 21, 1987 a refund report. Edison refunded to its resale customers a total of \$1,672,172.24, including interest.

Copies of this filing have been served upon all parties affected by this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 29, 1988. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1292 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-26-023]

Tennessee Gas Pipeline Co.; Filing Revised Tariff Sheets

January 15, 1988.

Take notice that on January 11, 1988 Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff to be effective as indicated below:

Tariff sheet	Effective date
Second Substitute First Revised Sheet No. 114	Aug. 21, 1987.
Second Revised Sheet No. 206	Feb. 7, 1988.
Second Revised Sheet No. 207	Feb. 7, 1988.
Second Substitute Original Sheet No. 208A	Aug. 21, 1987.
Substitute First Revised Sheet No. 211	Aug. 21, 1987.
Substitute First Revised Sheet No. 339	Aug. 21, 1987.
Substitute First Revised Sheet No. 339 No. 346	Aug. 21, 1987.
Substitute First Revised Sheet No. 347	Aug. 21, 1987.

Tennessee states that this filing is in compliance with the Commission's Order in this proceeding issued December 15, 1987.

Tennessee states that copies of the filing have been mailed to all affected customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before January 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1293 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-148-000 and CP88-153-000]

Texas Eastern Transmission Corp.; Emergency Petitions for Clarification or Waiver of the Commission's Regulations

January 15, 1988.

Take notice that on January 5, 1988,¹ Texas Eastern Transmission Corporation (TETCO), P.O. Box 2521, Houston, Texas 77252, filed under Sections 284.271 and 385.207 of the Commission's Regulations in Docket Nos. CP88-148-000 and CP88-153-000, respectively, for clarification or waiver of a certain portion of the Commission's Regulations to permit TETCO to make emergency sales of natural gas to two customers, commencing on December 31, 1987, without fear that it is violating the Natural Gas Act, all as more fully set forth in the petitions which are on file with the Commission and open to public inspection.

Specifically, TETCO indicates in Docket Nos. CP88-148-000 and CP88-153-000, that it plans to initiate emergency sales to Arkansas Louisiana Gas Company (Arkla) and Texas Southeastern Gas Company (TSGC), respectively, pursuant to the provisions of Subpart I of Part 284. TETCO indicates that it plans to cease all self-implementing transportation under Order Nos. 436 and 500 at 7:00 a.m. Central Standard Time on December 31, 1987, because of uncertainties surrounding the status of certain filings made by TETCO in Docket Nos. RP85-177, *et al.*, relating to the terms and conditions under which TETCO may provide such self-implementing transportation.

TETCO asserts in Docket No. CP88-148-000 that officials of Arkla have indicated that (1) Arkla is the only supplier of gas to the town of McRae, Arkansas, (2) the gas is supplied to 80 residential customers, many of whom have no alternate fuel for heating and (3)

¹ The applications were tendered for filing December 30, 1987, and December 31, 1987; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until January 5, 1988. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

that Arkla's sole source of gas supply is gas supplied by TETCO at the existing delivery point. Likewise, TETCO has included in its application filed in Docket No. CP88-153-000 an affidavit indicating that without the receipt of self-implementing gas from TETCO, TSGC would not have sufficient supplies to service its residential and small commercial requirements.

TETCO indicates that to meet the shortfall, it indicated that it has or was about to commence emergency sales of gas to Arkla and TSGC as provided by § 284.261, *et seq.*, on December 31, 1987. TETCO quotes Section 284.262(a)(1)(iii) of the Commission's Regulations which defines an emergency as to include any situation in which participant, in good faith, determines that immediate action is required or is reasonably anticipated to be required for protection of life or health or for maintenance of physical property.

TETCO believes that the circumstances in these two instances fall within the definition. However, TETCO notes that § 284.262(a)(2) of the Commission's Regulations provides the definition of an "emergency" does not include any situation "resulting solely from a failure by any person to transport natural gas" under Subpart B, C, G, or H of Part 284 of the Commission's Regulations. TETCO states that arguably this would exclude TETCO from making the emergency sales to Arkla and TSGC.

TETCO states that it is interpreting the relevant regulations that it can make the two emergency sales. However, TETCO requests that the Commission clarify that the regulations permit such action. In addition, TETCO also requests that in the event the Commission interprets § 284.262(a)(2) or any other regulation to preclude these circumstances from qualifying as an emergency under Subpart I of Part 284, that the Commission waive any and all such provisions as contemplated by § 284.271 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said petitions should on or before January 29, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing

therein must file a motion to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1294 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-3-42-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

January 15, 1988.

Take notice that Transwestern Pipeline Company (Transwestern) on January 11, 1988, tendered for filing as part of its FERC Gas Tariff Second Revised Volume No. 1, the following alternate tariff sheets:

Primary Revised Tariff Sheet:

42nd Revised Sheet No. 5

Alternate Revised Tariff Sheet:

Alternate 42nd Revised Sheet No. 5

Transwestern states that the above mentioned tariff sheets were filed to reflect an increase in its cost of gas from \$2.1031/dth to \$2.2941/dth or \$0.1910/dth. In addition, 42nd Revised Sheet No. 5 reflects an increase in the Surcharge Adjustment of \$0.0528/dth. The increase in current purchased gas cost reflected in the instant out-of-cycle PGA filing is a result of increased prices paid to producers under contracts with market-out provisions; Transwestern's largest producer of Section 104 gas exercising its right to price redetermination pursuant to Order 451; and an increase of jurisdictional deliveries over the level projected in Transwestern's most recent semi-annual PGA filing. The increase in the Surcharge Adjustment included in its jurisdictional sales rates is due to the impact of a significant increase in jurisdictional sales deliveries from those utilized in the development of the current surcharge in Docket No. TA88-1-42-000. Transwestern states that the proposed rates shown on 42nd Revised Sheet No. 5 are more reflective of the level of service being provided and will avoid the unnecessary shift of known gas purchase costs to future PGA rate periods.

Transwestern states that it has requested the Federal Energy Regulatory Commission (Commission) to waive any of its Regulations and Transwestern's tariff as may be necessary to approve the instant filing to become effective February 1, 1988.

Transwestern states that it also filed an alternate tariff sheet (Alternate 42nd Revised Sheet No. 5) which adjusts the jurisdictional sales rates for the change

in the average cost of gas per unit of sales established in Docket No. TA88-1-42-000 but maintains the current Surcharge Adjustment in the event that the Commission denies Transwestern's request for reestablishment of such surcharge.

Copies of this filing were served on Transwestern's jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Acting Secretary.

[FR Doc. 88-1295 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-172-000]

Pennsylvania Power & Light; Notice of Submittal

January 12, 1988.

Take notice that on December 28, 1987, a Consent Settlement Agreement executed by the Commission Trial Staff (Staff), Pennsylvania Power & Light Company (PP&L), Atlantic City Electric Company (AC), and the Public Advocate of New Jersey, Division of Rate Counsel (Public Advocate) was filed with the Commission. The consent Settlement Agreement would lower the specified return on common equity in the formula rate contained in the Capacity and Energy Sales Agreement dated September 24, 1979, between PP&L and AC (Rate Schedule FERC No. 74) to 12.75 percent. During the term of the Consent Settlement Agreement, AC, Public Advocate, and Staff have agreed that they will not seek to make operative a clause that would require the utility to periodically justify its equity component under a procedure which affords refund protection.

The signatories request an effective date of October 1, 1987.

Copies of this filing were served upon PP&L, AC, Public Advocate, and the New Jersey Board of Public Utilities.

Any person desiring to be heard regarding said submittal should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such comments should be filed on or before February 22, 1988. All signatories to the Consent Settlement Agreement may file reply comments on or before March 14, 1988. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1298 Filed 1-21-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.), this notice announces that the information collection requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review, and are available to the public for review and comment. These ICRs describe the nature of the information collections and their expected costs and burdens; where appropriate, they include the actual data collection instruments.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Application for Experimental Use Permit to Ship and Use a Pesticide for Experimental Purposes Only/Final Reports on EUPs. (EPA ICR #0276).

Abstract: This form is used to apply for a permit to ship and use and experimental or developmental pesticide chemical generally for the purpose of

developing data necessary to support an application for registration. Final reports are for monitoring the outcome of the experiment.

Respondents: Pesticides Manufacturers
Estimated Burden: 3,500 hours.
Frequency of Collection: On occasion.

Office of Solid Waste

Title: Letter to Governors of 50 States Requesting Review of Summaries of State Mining Waste Regulations. (EPA ICR #1437). (This is a new collection).

Abstract: To support the development of a regulatory program for mining wastes under Subtitle D of RCRA, EPA has prepared summaries of existing State mining waste regulatory programs, based on available literature. Each Governor is asked to review the accuracy of his or his State's summary and submit comments by letter. This information collection will help EPA bring the State summaries up to date and generate a model State program.

Respondents: State Governors.
Estimated Burden: 600 hours.
Frequency of Collection: One time.

Comments on the ICRs should be sent to:

Carla Levesque, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M St. S.W., Washington, DC 20460

and

Tim Hunt (ICR #0276) and Marcus Peacock (ICR #1437), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, 726 Jackson Place NW, Washington, DC 20503, (Telephone # (202) 395-3084).

Date: January 13, 1988.

Daniel Fiorino,

Director, Information Regulatory Systems Division.

[FR Doc. 88-1270 Filed 1-21-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3318-6]

Region VI; Approvals of PSD Permits and Extensions of PSD Permits

Notice is hereby given that the Environmental Protection Agency (EPA), Region VI, has issued Prevention of Significant Deterioration (PSD) permits to the following:

1. *PSD-TX-709M-1—Shell Western E & P, Incorporated:* Gas Processing plant located approximately five miles southwest of Sheridan, Colorado County, Texas. PSD-TX-709-M-1 modifies PSD-TX-709 to increase the allowable nitrogen oxide emission rate from 18.3 to 21.0 pounds per hour. The

modified permit was issued on July 10, 1987.

2. *PSD-TX-721—Gentex/TSG Joint Venture:* This permit, issued on July 10, 1987, authorizes the construction of a gas turbine cogeneration facility to be located at 12801 Bay Area Boulevard, La Porte, Harris County, Texas.

3. *PSD-TX-717—City of Austin:* This permit issued on July 17, 1987, authorizes the construction of eight natural gas and coal fired turbine units at the existing Decker Creek Power Station located at 8003 Decker Lane, Austin, Travis County, Texas.

4. *PSD-TX-714—Texas-New Mexico Power Company:* This permit, issued on August 6, 1987, authorizes the construction of lignite-fired electric generating plant to be located on State Highway 6, approximately eight miles northeast of Calvert, Robertson County, Texas.

5. *PSD-TX-704—Koch Refinery Company:* This permit issued on September 29, 1987, authorizes the construction of a 37 MW gas turbine cogeneration facility at the existing refinery located on Sunside Road in Corpus Christi, Nueces County, Texas.

These permits have been issued under EPA's Prevention of Significant Deterioration of Air Quality Regulations at 40 CFR 52.21, as amended August 7, 1980. The time period established by the Consolidated Permit Regulations at 40 CFR 124.19 for petitioning the Administrator to review any condition of the permit decisions has expired. Such a petition to the Administrator is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action. No petitions for review of these permits have been filed with the Administrator.

Documents relevant to the above actions are available for public inspection during normal business hours at the Air, Pesticides and Toxics Division, U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202.

Under section 307(b)(1) of the Clean Air Act, judicial review of the approval of these actions is available, if at all, only by the filing of a petition for review in the United States Fifth Circuit Court of Appeals, within 60 days of January 22, 1987. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce the requirements.

This notice will have no effect on the National Ambient Air Quality Standards.

The office of Management and Budget has exempted this information notice from the requirements of section 3 of Executive Order 12291.

Date: January 5, 1988.

Robert E. Layton Jr.,

Regional Administrator, Region VI.

[FR Doc. 88-1272 Filed 1-21-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3318-5]

Risk Assessment Forum Draft; Special Report on Ingested Inorganic Arsenic; Skin Cancer/Nutritional Essentiality; Availability

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Availability of Risk Assessment Forum Draft Report.

SUMMARY: This notice announces the availability of an EPA Risk Assessment Forum draft document entitled "Special Report on Ingested Inorganic Arsenic; Skin Cancer/Nutritional Essentiality." EPA has asked the Science Advisory Board (SAB) to review a policy statement that recommends modification of the Forum's skin cancer risk estimate. The date, time, and place of the SAB review meeting will be announced in a future *Federal Register* notice.

ADDRESSES: To obtain a single copy of this document, interested parties should contact: ORD Publications Office, CERL-FRN, U.S. Environmental Protection Agency (EPA), 26 Martin Luther King Drive, Cincinnati, OH 45268. Telephone: (513) 569-7562 (FTS: 684-7562).

Please provide your name, mailing address, and the EPA document number (EPA-625/3-87/013A). The document will be distributed from the Cincinnati office only. It will be available for public inspection and copying at the: EPA Public Information Reference Unit (PIRU), EPA Headquarters, Waterside Mall, 401 M Street SW., Washington, DC 20460.

DATES: Comments on the policy issue referred to the Science Advisory Board may be sent to: Project Manager for Arsenic, Risk Assessment Forum (RD-689), 401 M Street SW., Washington DC 20460. All comments must be postmarked by March 15, 1988.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Tuxen, (202 or FTS) 475-6743.

SUPPLEMENTARY INFORMATION: A variety of chemical sources may pose health risks to humans, including emissions from automobile exhausts, leachate from dumpsites, and contaminants in pesticides. EPA

decisions on managing a particular chemical from these various sources should be founded on an assessment of risk that is applied consistently across the Agency.

The Risk Assessment Council (Council), an Agencywide management level committee, was formed to help achieve this goal by identifying cross-cutting risk assessment issues that need resolution. The Risk Assessment Forum (Forum), an Agencywide group of senior scientists, examines the science that underlies a particular issue and produces a report that articulates a scientific position on the subject. The Council reviews the Forum product and, as appropriate, recommends to the Administrator a science policy position, which then can be applied consistently to related Agency problems.

As an example of this process, the Agency has been confronting a number of issues associated with the carcinogenic potential of ingested inorganic arsenic. Scientific issues that have been investigated and resolved by the Forum are found in the Risk Assessment Forum's "Special Report on Ingested Inorganic Arsenic; Skin Cancer/Nutritional Essentiality." This technical document was forwarded to the Council, which reviewed it favorably and developed a science policy position on the significance of certain aspects of arsenic carcinogenesis. The Council's statement is presented in the Forum report and will be the primary subject of the SAB review.

The Forum's preliminary scientific analysis benefitted from intensive discussion of an early draft of the Forum report at a peer-review workshop in December 1986 (see 51 FR 42135, November 21, 1986). The Administrator is currently seeking additional views from various EPA offices, and has requested Science Advisory Board review of the basis for the Council's recommended modification of the risk estimate in the Forum report. Final action is expected in 1988.

Date: January 12, 1988.

Vaun A. Newill,

Assistant Administrator for Research and Development.

[FR Doc. 88-1271 Filed 1-21-88; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3319-1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 4, 1988 through January 8, 1988 pursuant to the

Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76.

An explanation of the rating assigned to draft environmental impact statements (EISs) was published in FR dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. D-AFS-L65111-WA, Rating EC2, Colville National Forest, Land and Resource Management Plan, Implementation, Perry, Pend Oreille and Stevens Counties, WA.

Summary: EPA believes this document, was written, does not clearly preclude the possibility of adverse environmental impacts. Our primary concerns are that this document did not clearly provide the necessary protection for water quality and sensitive beneficial uses.

ERP No. D-FHW-D40229-MD, Rating EC2, MD-228 Extension, US 301 to MD-210 and MD-210 Improvement, MD-228 Extended to Old Fort Road, Funding, Charles and Prince Georges Counties, MD.

Summary: EPA has concerns regarding secondary development in the study area and its impacts on wetlands and wildlife. EPA suggests that potential wetland mitigation sites be presented in the final FIS.

ERP No. D-FHW-J40115-ND, Rating LO, Columbia Road Overpass Widening, Gateway Drive to 32nd Avenue South, Funding, Grand Forks County, MD.

Summary: EPA does not anticipate any significant environmental impacts with the proposed action.

Final EISs

ERP No. F-AFS-L65097-00, Sawtooth National Forest, Land and Resource Management Plan and Wilderness Recommendations, Implementation, Blaine, Boise, Camas, Cassia, Custer, Elmore, Oneida, Power, and Twin Falls Counties, ID and Box Elder County, UT.

Summary: EPA continues to have environmental concerns with this document. The level of detail and commitment for monitoring is not commensurate with the sensitivity of the resources. A feedback mechanism needs to be made clear so that standards and guidelines, best management practices, standard operating procedures, intensity of monitoring, timber sale administration, and grazing allotment management and modelling are adjusted when monitoring indicates a need.

ERP No. F-BLM-J70012-WY, Pinedale Resource Area, Resource Management Plan, Implementation, Rock Springs District, Sublette and Lincoln Counties, WY.

Summary: EPA concerns on the draft EIS were only partially resolved. Changes to the draft included insufficiently defined riparian area objectives. More specificity was requested for management of aquatic resource under the Clean Water, Federal Land Policy and Management, and Colorado River Salinity Control Acts; management for Areas of Critical Environmental Concern, municipal watershed; herbicide spraying; monitoring; and implementation coordination (including the Clean Water Act section 319 nonpoint source control program).

Dated: January 19, 1988.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 88-1325 Filed 1-21-88; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-33189]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed January 11, 1988 Through January 15, 1988 Pursuant to 40 CFR 1506.9.

EIS No. 880008, Draft, AFS, OR, Mount Hood National Forest, Land and Resource Management Plan, Implementation, Clackamas, Hood River, Jefferson, Marion, Multnomah and Wasco Counties, OR, Due: April 15, 1988, Contact: William Geurds (503) 666-0795. This DEIS should have appeared in the January 15, 1988 FR. The Official comment period stated as of January 15, 1988.

EIS No. 880009, DSUpl, EPA OH, Columbus Metropolitan Area, Wastewater Treatment Facilities, Modifications and Updated Information, Grant, Franklin, Delaware, Fairfield, Madison and Pickaway Counties, OH, Due: March 7, 1988, Contact: Harlan D. Hirt (312) 353-2315.

EIS No. 880010, Draft, FHW, SC, Cross Island Expressway Construction, US 278 to Palmetto Bay Road, Hilton Head Island, Funding and section 10 and 404 Permits, Beaufort County, SC, Due: March 7, 1988, Contact: William H. Rice (803) 765-5411.

EIS No. 880011, FSUpl, COE, CA, Sacramento River Bank Protection

Project, Butte Basin Reach (River Miles 176 to 194) Stabilization, Updated Information, Butte and Glenn Counties, CA, Due: February 22, 1988, Contact: Mike Welsh (916) 551-1861.

EIS No. 880012, Draft, FHW, TX, US 65 Bypass Construction, near FM-1434 to near Spur 102, Cleburne, Funding, Johnson County, TX, Due: March 7, 1988, Contact: William Hall (512) 463-0264.

EIS No. 880013, DSUpl, COE, TX, Lake Wichita-Holiday Creek Flood Control Project, Mo Grath Creek Flood Control Plan, Implementation, Wichita County, TX, Due: March 7, 1988, Contact: Buell Atkins (918) 581-7857.

EIS No. 880014, Draft, BLM, NM, Socorro Resource Area Management Plan, Implementation, Las Cruces District, Socorro and Catron Counties, NM, Due: April 22, 1988, Contact: Harlen Smith (505) 835-0412.

EIS No. 880015, Final, BOP, PA, Schuylkill Federal Correctional Institution Complex, Construction and Operation, Schuylkill County, PA, Due: February 22, 1988, Contact: William J. Patrick (202) 274-3232.

Amended Notices

EIS No. 870439, Draft, MMS, Northern California Oil and Gas Sale No. 91, Lease Offerings, Humboldt and Mendocino Counties, CA, Due: February 12, 1988, Contact: Steven Alcorn (213) 894-6741. Published FR 12-18-87—Review period extended.

EIS No. 870458, Draft, AFS, Shasta and Trinity Units, Revised Operation and Development Plan, Whiskeytown-Shasta-Trinity National Recreation Area, Implementation, Shasta and Trinity National Forests, Shasta and Trinity Counties, CA, Due: March 8, 1988, Contact: Pam Gardiner (916) 275-1587. Published FR 1-8-88—Review period extended.

Dated: January 19, 1988.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 88-1326 Filed 1-21-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3318-8]

RCRA Integrated Training and Technical Assistance Program; Financial Assistance Program; Availability for Review

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability for review.

SUMMARY: The Environmental Protection Agency's (EPA) Office of Solid Waste

and Emergency Response (OSWER) is announcing the availability of a new financial assistance program, the RCRA Integrated Training and Technical Assistance (RITTA) initiative. The RITTA initiative is a grant (cooperative agreement) program designed to provide assistance to a limited number of States to plan and implement hazardous waste training and technical assistance activities in support of the State's Resource Conservation and Recovery Act (RCRA) program. While only State agencies currently receiving funds under RCRA section 3011 (Authorization of Assistance to States) are eligible to apply for RITTA funds, the agencies are authorized to enter into subagreements with organizations (e.g., universities, other agencies, training centers, etc.). The objective of the RITTA grant program is to assist States in achieving environmental improvement and implementing RCRA program goals through the use of training and technical assistance techniques. The State program activities funded and required under the RITTA initiative will include three components: (1) Development of a long-term plan for training and technical assistance activities; (2) delivery of RCRA program training activities for State environmental regulators; and (3) implementation of an initial pilot technical assistance project in waste minimization for the industrial/regulated community.

FOR FURTHER INFORMATION CONTACT:

Kate Connors, Office of Solid Waste and Emergency Response (WH-562A), Office of Program Management and Technology, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-6647.

SUPPLEMENTARY INFORMATION: In fiscal year 1987, the U.S. Congress issued a directive and provided an add-on appropriation of three million dollars to EPA "to undertake a concerted RCRA training initiative" using the "model for operator training developed and proven in the wastewater program, which integrates technical assistance outreach activities, and State program development." EPA, in particular the Office of Solid Waste and Emergency Response (OSWER), is responding to this mandate, as well as to the findings of the Administrator's Task Force on Technology Transfer and Training, by implementing the RCRA Integrated Training and Technical Assistance (RITTA) initiative. OSWER's Office of Program Management and Technology is, in fact, supplementing the Congressional appropriation of three million dollars with an additional

\$200,000 as an expression of commitment to State hazardous waste training and technical assistance.

Through this program, State environmental protection agencies that are currently receiving RCRA section 3011 (Authorization of Assistance to States) grant monies will be eligible to compete for RITTA cooperative agreement funds. These funds are to be used to: (1) Develop a State Training Action Plan (STAP); (2) develop and implement RCRA training programs for State environmental personnel as called for in the STAP; and (3) develop and implement a pilot technical assistance project in waste minimization for the industrial/regulated community.

State Training Action Plan (STAP)

The first component of the RITTA cooperative agreement program calls for States to develop a State Training Action Plan (STAP)—a comprehensive, long-term plan to achieve RCRA program goals using training and technical assistance techniques. Each State STAP will include:

- (1) An evaluation of existing State programs;
- (2) A needs assessment; and
- (3) A plan to improve environmental progress and achieve RCRA program goals by developing and implementing State training and technical assistance programs.

The plan will address such issues as building administrative structures, generating fiscal support, integrating training and technical assistance and enforcement activities to achieve environmental compliance goals, institutionalizing training and technical assistance efforts at the State level, and building public awareness and support.

RCRA Training for State Environmental Personnel

The second component of the RITTA cooperative agreement program calls for State grant recipients to develop and implement hazardous waste training programs for State personnel charged with managing environmental programs (e.g., State D.E.P., D.E.R., or E.P.A. etc. personnel, State Siting Commission or Board members, State Health Department personnel, etc.). These training efforts will be directed towards:

- (1) Achieving the goals of the State RCRA program through workforce development, and (2) training State employees to develop and deliver technical assistance programs for the industrial (or regulated) community, working towards the goal of an improved environment.

Technical Assistance Pilot Project for the Industrial/Regulated Community

The third component of the RITTA cooperative agreement program calls for State grant recipients to develop and implement an initial demonstration technical assistance project for the State industrial community. The demonstration project will be a pilot for additional technical assistance efforts as planned under the STAP. It is anticipated that the pilot project will demonstrate the effectiveness of training and technical assistance techniques, and through this demonstration, generate support for subsequent projects. In accordance with the 1984 HSWA amendments to RCRA, which identified reduction of hazardous waste as a national goal, the focus of the pilot and technical assistance project will be waste minimization. The goal of the pilot project will be to achieve a quantifiable reduction of hazardous waste generated within the State.

In order to be eligible to participate in the open competition for RITTA grant awards a State environmental agency must:

- (1) Currently be receiving State program grants under section 3011 of RCRA;
- (2) Submit a Letter of Intent to participate, signed by the State Environmental Agency Commissioner or Secretary, to EPA OSWER by March 15, 1988; and
- (3) Submit a complete grant application package to EPA OSWER by May 15, 1988.

While only States currently receiving funds under RCRA Section 3011 (Authorization of Assistance to States) are eligible to apply for RITTA funds, the agencies are authorized to enter into subagreements with other organizations (e.g., universities, colleges, other agencies, training centers, etc.).

A RITTA grant application package will be available in mid-January, 1988. The package will contain further information on the RITTA program, a grant application, and instructions for completing the application. Copies of the application package will be sent to each State environmental agency. Additional copies will be available from Kate Connors of OSWER at the address listed in the further information section.

This program is eligible for intergovernmental review under Executive Order 12372 and is subject to the review requirements of section 204 of the Demonstration Cities and Metropolitan Development Act. States must notify the following office in writing within thirty days of this publication whether their State's official E.O. 12372 process will review

applications in this program: Grants Policies and Procedures Branch, Grants Administration Division (PM-216), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460.

Applicants (State agencies) must contact their State's Single Point of Contact (SPOC) for intergovernmental review as early as possible to find out if the program is subject to the State's official E.O. 12372 review process and what material must be submitted to the SPOC for review. In addition, applications including projects within a metropolitan area must be sent to the areawide/Regional/local planning agency designated to perform metropolitan or Regional planning for the area for their review.

SPOCs and other reviewers should send their comments concerning applications to the Grants Operations Branch, Grants Administration Division (PM-216F), U.S. Environmental Protection Agency, 410 M Street SW., Washington DC, 20460, no later than sixty days after receipt of an application/other required material for review.

James G. Cruickshank,
Training Officer, Office of Program Management and Technology.

Margaret M. Kelly,
Director, Technology Staff, Office of Program Management and Technology.

Thomas W. Devine,
Director, Office of Program Management and Technology.

[FR Doc. 88-1267 Filed 1-21-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00253; FRL-3319-6]

State-FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting of Working Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Working Committee on Groundwater Protection and Disposal (WC/GPD) of the State-FIFRA Issues Research and Evaluation Group (SFIREG). The meeting will be open to the public.

DATES: Monday, February 8, and Tuesday, February 9, 1988, beginning at 8:30 a.m. each day and concluding by 4:30 p.m., Tuesday, February 9.

ADDRESS: The meeting will be held at: Hyatt Regency—Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202, (703-486-1234).

FOR FURTHER INFORMATION CONTACT:

By mail: Philip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, 401 M St. SW., Washington, DC
Office location and telephone number: Rm. 1115, Crystal Mall No. 2, 1921 Jefferson David Highway, Arlington, Virginia, (703-557-7096).

SUPPLEMENTARY INFORMATION: This will be the sixth meeting of the Working Committee on Groundwater Protection and Disposal (WC/GPD). The purpose of the WC/GPD is to consider pesticide-related aspects of ground water protection and disposal of pesticide waste, excess pesticides and used pesticide containers, and to make recommendations through the full SFIREG regarding Agency policies in these key areas. The focus of the meeting will be primarily on ground water topics on February 8 and on disposal matters on February 9. The following topics are currently on the agenda.

1. The National survey of pesticides in drinking water wells.
2. Health Advisories—problems of practical application.
3. Agricultural chemicals in groundwater strategic plan.
4. Problems of groundwater contamination and pesticide disposal at pesticide mixing/loading sites.
5. Status of Part 165 Rule (Disposal).
6. Discussion of state questions on pesticide disposal previously submitted to EPA, together with the Agency's responses.
7. SARA Title III Issue.
8. Status of EDB, 2,4,5-T/Silvex and dinoseb disposal efforts.
9. Other topics as appropriate.

Dated: January 11, 1988.

Douglas D. Camp, Jr.

Director, Office of Pesticide Programs.

[FR Doc. 88-1380 Filed 1-21-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Announcement of First Meeting of the Implementation Subcommittee of the Advisory Committee on Advanced Television Service

The first meeting of the Implementation Subcommittee of the FCC Advisory Committee on Advanced Television Service will be held on February 11, 1988, and will start at 1:00 p.m. in the Commission Meeting Room (Room 856) at 1919 M Street, NW., Washington, DC. All interested persons are invited to attend. Those interested may also submit written statements at

the time of the meeting. Oral statements and discussion will be permitted under the direction of the Subcommittee Chairman.

The agenda for the first meeting will consist of:

1. Introductory Remarks,
2. Objectives and Organization,
3. Administrative Matters,
4. Working Party 1—Policy and Regulation,
5. Working Party 2—Transition Scenarios,
6. Other Business,
7. Date and Location of Next Meeting,
8. Adjournment.

Any questions regarding this meeting should be directed to the Implementations Subcommittee Chairman Dr. James J. Tietjen (609) 734-2237 or Mr. Steve Bailey (202) 632-5414.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-1212 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant and city/state	File No.	MM Docket No.
A. Jennifer Day d/b/a Day Broadcasting, Lawton, OK.	BPCT-870304KG	87-550
B. Barton W. Ratliff, Lawton, OK.	BPCT-870421KH	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, B
Minimum Separations, B
Comparative, A, B
Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying

during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 88-1213 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Proceeding

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/state	File No.	MM Docket No.
A. Brian Dodge, d/b/a Harvest Broadcasting, Haverhill, NH.	BPH-870327KG	87-572
B. Puffer Broadcasting, Inc., Haverhill, NH.	BPH-870331PC	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, Both
2. Ultimate, Both

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW.,

Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay, Assistant Chief,

Audio Services Division, Mass Media Bureau.

[FR Doc. 88-1214 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/state	File No.	MM Docket No.
A. Steve P. Neville and Judy Crabtree, Cave City, KY.	BPH-861118MA	87-571
B. Bernice Faye Greene, Cave City, KY.	BPH-861124MJ	
C. Hometown Broadcasting of Cave City, Inc., Cave City, KY.	BPH-861125MF	
D. Cave Country Communications, Inc., Cave City, KY.	BPH-861126MD	
E. Steven W. Newberry, Cave City, KY.	BPH-861126MQ	
F. John F.X. Browne et al., d/b/a Bronnco Broadcasting, Cave City, KY.	BPH-861126NC	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B, C, D, E, F
2. Ultimate, A, B, C, D, E, F

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-1215 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Sue A. Underwood and Brenda Stroud, a General Partnership; Charleston, SC.	BPH-860203NK	87-573
B. Kuhl Partnership; Charleston, SC.	BPH-860203NL	87-573
C. Lowcountry Women Communications, Inc.; Charleston, SC.	BPH-860203NW	87-573
D. Innovative Broadcasting, Inc.; Charleston, SC.	BPH-860203NY	87-573
E. Opportunity Broadcasting, Inc.; Charleston, SC.	BPH-860203OA	87-573
F. Radio Charleston Partners; Charleston, SC.	BPH-860203OB	87-573
G. John A. Filtz; Charleston, SC.	BPH-860203OC	87-573
H. FM Charleston Limited Partnership; Charleston, SC.	BPH-860203OD	87-573
I. Meredith M. Steel; Charleston, SC.	BPH-860203OE	87-573
J. Charleston Associates; Charleston, SC.	BPH-860203OF	87-573
K. Charleston FM Group Limited Partnership; Charleston, SC.	BPH-860203OI	87-573
L. Shore Communications; Charleston, SC.	BPH-860203OJ	87-573
M. Second Equimedia Limited Partnership; Charleston, SC.	BPH-860203OK	87-573
N. Allan A. Jenkins; Charleston, SC.	BPH-860203OL	87-573
O. Charleston Radio Associates; Charleston, SC.	BPH-860203OM	87-573
P. Gemini Broadcasters, Inc.; Charleston, SC.	BPH-860203ON	87-573
Q. Minority Broadcasting Corporation; Charleston, SC.	BPH-860203OO	87-573
R. Clear Channel Communications, Inc.; Charleston, SC.	BPH-860203OP	87-573
S. 80-90 Limited; Charleston, SC.	BPH-860131MJ	(Dis-missed)
T. Teresa H. Vause; Charleston, SC.	BPH-860203NX	(Dis-missed)
U. William Saunders and Juanita W. LaRoche d/b/a La-Saun Communications; Charleston, SC.	BPH-860203NZ	(Dis-missed)
V. Dot Broadcasting, Limited Partnership; Charleston, SC.	BPH-860203OH	(Dis-missed)

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

- 1(a). Financial Qualifications, H
- 1(b). Misrepresentation, H
- 1(c). Qualifications, H
2. Air Hazard, E,P,R
3. Comparative, A-R
4. Ultimate, A-R

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-1216 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

[Common Carrier Docket 83-525, FCC 87-386]

Inquiry Into Policies To Be Followed in the Authorization of Common Carrier Facilities To Meet Caribbean Region Telecommunications Needs During the 1985-1995 Period

AGENCY: Federal Communications Commission.

ACTION: Report and order adopting guidelines.

SUMMARY: This Report and Order concludes the first phase of the facilities planning process in the Caribbean region in which policies and guidelines have been developed for the construction and use of common carrier transmission facilities in the Caribbean region during the period 1985-1995. The Commission adopts guidelines to be followed in authorizing the construction of a Transcaribbean digital optical fiber cable system (Revised TCS-1) linking Florida, Puerto Rico, Jamaica, the Dominican Republic and Colombia. The Revised TCS-1 Plan will introduce digital fiber optic cable technology to the region for the first time, maintain media and route diversity, enhance existing restoration ability, is consistent with national security and will promote intramodal and intermodal competition.

EFFECTIVE DATE: February 22, 1988.

ADDRESS: Federal Communications Commission, 1919 M street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Angela Burnett, International Facilities Division, Common Carrier Bureau, (202) 632-7265.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report

and Order in Common Carrier Docket 83-525, FCC 87-386, adopted December 10, 1987, and released January 8, 1988.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. The Commission initiated this proceeding June 7, 1983, with the release of a Notice of Inquiry (NOI), FCC 83-525. That NOI stated that the Commission sought to develop policies and guidelines for the construction and use of common carrier transmission facilities in the Caribbean region during the 1985-1995 period. Six alternative plans were proposed by the United States International Service Carriers (USISCs) and Communications Satellite Corporation (Comsat) for consideration. The USISCs proposed the introduction of digital or analog cables linking the region, while Comsat offered two No New Cables plans.

2. On February 5, 1986, the Commission released a Notice of Proposed Rulemaking (NPRM) narrowing the range of alternative plans which should receive further consideration to the USISCs Plan 2A Modified and Comsat's No New Cables plans. The USISCs subsequently changed the routing of Plan 2A Modified and redesignated it as "Plan 2A Modified, as amended". Following comments by the Commonwealth of Puerto Rico (the Commonwealth) which urged the inclusion of Puerto Rico via an additional fiber optic cable connecting Puerto Rico to the U.S. Mainland, the Commission requested additional comments from AT&T and others concerning the feasibility of this proposal.

3. On July 16, 1987, additional comments were sought in response to the Further Planning Update submitted by AT&T which proposed to include Puerto Rico in the Transcaribbean cable. This configuration would use the capacity of the Florico-2 fiber optic cable to link Puerto Rico to the U.S. Mainland and then extend to the Dominican Republic, Jamaica, and Colombia.

4. In evaluating plans concerning the possible construction of a Transcaribbean cable, we applied the criteria enumerated in our NPRM: forecasted demand and demand

flexibility for the Caribbean region during the planning period; the need for media and route diversity; restoration capabilities; the introduction of digital optical fiber technology and the attendant benefits of intermodal and intramodal competition; the costs of the proposed alternative plans; and foreign correspondents' acceptance.

5. We find that the USISC's Revised TCS-1 Plan, which proposes the construction of a Transcaribbean Cable system in 1989, linking Florida, Puerto Rico, the Dominican Republic, Jamaica and Colombia, the most acceptable plan. It will introduce new digital fiber optic cable technology to the region for the first time and will maintain media and route diversity, enhance restoration options, be consistent with national security considerations, promote intramodal and intermodal competition, and enable Puerto Rico to connect the U.S. mainland and other points in the Caribbean region. This plan also has the approval of the carriers' foreign correspondents.

6. The Transcaribbean cable will allow growth traffic to cable as well as satellite media. The cable will establish for the first time a meaningful level of media diversity on the United States-Colombia route. Construction of the Transcaribbean Cable will also provide direct media diversity to Colombia, one of the larger traffic routes in the Caribbean area.

7. It will also extend the benefits of digital optical fiber submarine cable technology to Haiti, Antigua, Barbados, Dominica, the French Antilles, Grenada, Guyana, Montserrat, St. Kitts, St. Lucia, Tortola, Trinidad and St. Vincent through the extension of circuits in the cable by digital microwave systems. It will promote technological development for the region and enhance customer choice. The Transcaribbean cable will provide the region with terrestrial digital communication with other parts of the world through connections with digital optical fiber cables in the Atlantic and Pacific Ocean regions.

8. Attendant with the introduction of new technology are the benefits of intermodal and intramodal competition. In the Caribbean region, access to digital cable facilities could increase intermodal competition, promote efficiency, and create a downward pressure on rates. Intramodal competition will be increased because those carriers desiring cable circuits but presently unable to obtain them will have them available for use. It will also improve intermodal competition to those points by permitting services now provided exclusively by satellite to be provided by cable as well. We also

believe that intramodal competition in the Caribbean region will be increased with the introduction of the Transcaribbean cable, since those carriers desiring new digital cables, rather than the existing analog cables, will have them available for use.

9. We do not reach any conclusion as to cost benefits associated with these plans because their costing methodologies and the support data are vastly different, rendering a comparison meaningless. Further, we postpone consideration of the Central America cable to a later portion of this proceeding. Finally, because the Commission is developing post-1988 circuit distribution guidelines on a worldwide, rather than region-by-region basis, we will resolve that issue in the circuit distribution proceeding, CC Docket No. 87-67. Notwithstanding the Commonwealth's reservations, we conclude that construction of the Transcaribbean cable is consistent with our policy in promoting global telecommunications through international cooperation and comity.

10. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose no new or modified information collection requirements on the public. Implementation of any new or modified requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ordering Clauses

11. According, it is ordered, pursuant to sections 4(i), 4(j), 201-205, 214, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201-205, 214, 403 (1976) that we adopt the following policy guidelines for the Caribbean Ocean Region:

(1) We find that a Transcaribbean submarine fiber optic cable, Revised TCS-1, as described in the Further Planning Update with a ready for service date as early as the fourth quarter of 1989 is in the public interest.

(2) We defer consideration of the Central American Cable to a future phase of this proceeding.

12. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605, it is ordered, that sections 603 and 604 of the Act do not apply because the policy guidelines adopted herein is a rule of particular applicability and economic impact on AT&T and other members of USISCs who are not small entities, and is, hence, not subject to the Regulatory Flexibility Act.

13. It is further ordered that CC Docket 83-525 remains open for additional

proceedings upon further order of the Commission.

14. It is further ordered that the Secretary of the Commission shall cause a summary of this Report and Order to be published in the **Federal Register** and shall mail a copy of this decision to the Chief for Advocacy of the Small Business Administration.

Federal Communications Commission

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-1210 Filed 1-21-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-808-DR]

Hawaii, Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA-808-DR), dated January 8, 1988, and related determinations.

DATED: January 8, 1988.

FOR FURTHER INFORMATION CONTACT:

Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

Notice is hereby given that, in a letter dated January 8, 1988, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the State of Hawaii resulting from severe storms, flooding, and mudslides beginning on or about December 11, 1987, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I, therefore, declare that such a major disaster exists in the State of Hawaii.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the affected areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated areas.

Pursuant to section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the Individual and Family

Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster. I do hereby determine the following areas of the State of Hawaii to have been affected adversely by this declared major disaster: The city and County of Honolulu for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 88-1233 Filed 1-21-88; 8:45 am]

BILLING CODE 6718-02-M

Board of Visitors for the Emergency Management Institute; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the Emergency Management Institute (EMI).
Dates of Meeting: February 22-24, 1988.

Place: Federal Emergency Management Agency, National Emergency Training Center, Emergency Management Institute, Conference Room, Building N, Emmitsburg, MD 21727.

Time: February 22—7:00 p.m. to 9:00 p.m., February 23—8:30 a.m. to 5:00 p.m., February 24—8:30 a.m. to Agenda Completion.

Proposed Agenda: Calendar Year 1988 Appointments to the Board; 1987 Annual Report.

The meeting will be open to the public with approximately ten seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, Office of Training, 16825 South Seton Avenue, Emmitsburg, Maryland, 21727 (telephone number, 301-447-1251) on or before February 10, 1988.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the

Director's Office, Office of Training, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Caesar A. Roy,

Acting Director, Office of Training.

Dated: January 11, 1988.

[FR Doc. 88-1234-Filed 1-21-88; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

First Savings Association of East Texas, Houston, TX; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B) of the National Housing Act, as amended, 12 U.S.C. section 1729(c)(1)(B) (1982), the Federal Savings and Loan Insurance Corporation as sole receiver for First Savings Association of East Texas, Houston, Texas on January 14, 1988.

Dated: January 18, 1988.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 88-1235 Filed 1-21-88; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 564

Name: A. Judson Murray & Co., Inc. dba

A.J. Murray & Co., Inc.

Address: 111 John Street, New York, N.Y. 10038

Date Revoked: July 30, 1987

Reason: Failed to maintain a valid surety bond

License Number: 2829

Name: O.V.I. Project Transport Corp.

Address: 179-14 149th Road, Jamaica, NY 11434

Date Revoked: September 3, 1987

Reason: Failed to maintain a valid surety bond

License Number: 561

Name: Charles L. Rini dba Empire Forwarding Company
Address: 74 W. Fairview Avenue, Valley Stream, NY 11580
Date Revoked: November 2, 1987
Reason: Surrendered license voluntarily
License Number: 2921R
Name: Columbia Industries Corporation
Address: 1400 Fashion Island Blvd., San Mateo, CA 94404
Date Revoked: November 6, 1987
Reason: Surrendered license voluntarily
License Number: 2618
Name: Total Transportation Corporation
Address: 429 Moon-Clinton Road, Coraopolis, PA 15108
Date Revoked: November 10, 1987
Reason: Surrendered license voluntarily
License Number: 1709
Name: Ki Tai Chang dba K-C International Freight Forwarders
Address: 3410 Geary Boulevard, Suite 101, San Francisco, CA 94118
Date Revoked: November 11, 1987
Reason: Failed to maintain a valid surety bond
License Number: 1570
Name: Specialty Forwarding Services, Inc.
Address: 353 Coral Circle, El Segundo, CA 90245
Date Revoked: November 13, 1987
Reason: Failed to maintain a valid surety bond
License Number: 2925
Name: Endicott International, Inc.
Address: 4000 West Side Avenue, North Bergen, NJ 07047
Date Revoked: November 18, 1987
Reason: Failed to maintain a valid surety bond
License Number: 395
Name: F.B. Vandegrift & Co., Inc.
Address: 320 Walnut Street, Philadelphia, PA 19106
Date Revoked: November 18, 1987
Reason: Failed to maintain a valid surety bond
License Number: 2253
Name: Aurora International Forwarding, Inc.
Address: 5060 Shaw Line Drive, San Diego, CA 92111
Date Revoked: November 18, 1987
Reason: Failed to maintain a valid surety bond
License Number: 2984
Name: Intersped Systems, Inc.
Address: 496 S. Airport Blvd. So. San Francisco, CA 94080
Date Revoked: November 25, 1987
Reason: Failed to maintain a valid surety bond
License Number: 902
Name: Export-Import Service Co., Inc.
Address: 28265 Beverly Road, Romulus, MI 48174

Date Revoked: November 25, 1987
Reason: Failed to maintain a valid surety bond
License Number: 1120R
Name: Inter-Continental Corporation
Address: 5465 N.W. 36th Street, P.O. Box 592413, Miami, Florida 33159
Date Revoked: November 30, 1987
Reason: Failed to maintain a valid surety bond
License Number: 2212
Name: Gedenk Shipping, Inc.
Address: 17 Battery Place, New York, N.Y. 10004
Date Revoked: December 1, 1987
Reason: Surrendered license voluntarily
License Number: 1129
Name: Dickinson, Mikell and Comar, Inc.
Address: 4 North Atlantic Wharf, P.O. Box Drawer 1540, Charleston, S.C. 29402
Date Revoked: December 1, 1987
Reason: Surrendered license voluntarily
License Number: 2959-R
Name: Leslie Enterprises, Inc.
Address: 1123 Wilso Drive, Baltimore, MD 21223
Date Revoked: December 23, 1987
Reason: Failed to maintain a valid surety bond
Bryant L. VanBrakle,
Deputy Director, Bureau of Domestic Regulation.
[FR Doc. 88-1276 Filed 1-21-88; 8:45 am]
BILLING CODE 6730-01-M

Reissuance of Ocean Freight Forwarder License; Universal Transport Corp. et al.

Notice is hereby given that the following ocean freight forwarder licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No.	Name/Address	Date reissued
732	Universal Transport Corporation, 70 West 36th Street, New York, NY 10018.	Nov. 13, 1987.
88	W.L. Richeson & Sons, Inc., 442 Canal Street, P.O. Box 50248, New Orleans, LA 70150.	Nov. 18, 1987.
3024	S.A. Chiarella, dba S.A. Chiarella Forwarding Company, 1233 Nadina, San Mateo, CA 94402.	Nov. 18, 1987.

Robert G. Drew,
Director, Bureau of Domestic Regulation.
[FR Doc. 88-1275 Filed 1-21-88; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Harrison Bankshares, Inc. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 11, 1988.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Harrison Bankshares, Inc.*, Lost Creek, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of the Harrison County Bank, Lost Creek, West Virginia.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First American Corporation*, Noxville, Tennessee; to acquire 100 percent of the voting shares of American Bancshares, Inc., Cookeville, Tennessee, and thereby indirectly acquire American Bank & Trust Company, Cookeville, Tennessee.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *West Iowa Banc Corp.*, Marcus, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Farmers State Bank, Marcus, Iowa.

Board of Governors of the Federal Reserve System, January 15, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-1199 Filed 1-21-88; 8:45 am]

BILLING CODE 6210-01-M

CoreStates Financial Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such

as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 5, 1988.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, DC 20551:

1. CoreStates Financial Corp., Philadelphia, Pennsylvania; to acquire through its indirect subsidiary, Congress Financial Corporation, all or substantially all of the assets of First Interstate Commercial Corporation, and thereby engage in commercial financing activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 20, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-1422 Filed 1-21-88; 9:44 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15, U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individuals cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 12-03-87 AND 12-04-87

Name of Acquiring Person, Name of Acquired Person, Name of Acquiring Entity	PMN No.	Date terminated
(1) International Paper Company, Colgate-Palmolive Company, The Kendall Company	88-0269	12/03/87
(2) International Paper Company, Arvey Corporation, Arvey Corporation	88-0316	12/03/87
(3) General Electric Company, Holiday Corporation, Embassy Suites, Inc.	88-0340	12/03/87
(4) Georgetown Industries, Inc., McCown De Leeuw & Co., Western Lumber Company, Inc.	88-0385	12/03/87
(5) Masao Nangaku, a natural person, John B. Anderson, a natural person, M&R Investment Co., Inc.	88-0123	12/04/87
(6) Louis J. Roussel, Kaufman and Broad, Inc., Coastal States Life Insurance Company	88-0194	12/04/87
(7) S.E. McCroles Trust, Vernon Savings & Loan Association, FSA, State Reserve	88-0247	12/04/87
(8) CSR Limited, Samuel A. Horvitz Testamentary Trust, Mack Industries, Inc.	88-0312	12/04/87
(9) Fireman's Fund Corporation, Sabine Royalty Trust, Sabine Royalty Trust	88-0336	12/04/87
(10) Fireman's Fund Corporation, Mesa Royalty Trust, Mesa Royalty Trust	88-0347	12/04/87
(11) The Fulcrum III Limited Partnership, CNW Corporation, CNW Corporation	88-0373	12/04/87
(12) Pitney Bowes Inc., Baldwin Cooke Company, Baldwin Cooke Company	88-0379	12/04/87
(13) Montedison S.p.A., BMF Services, Inc., BMF Services, Inc.	88-0403	12/04/87
(14) Ford Motor Company, Imperial Corporation of America, ICA Mortgage Corporation	88-0407	12/04/87
(15) Phillips Beverage Company, Alco Standard Corporation, Ed Phillips & Sons Co. and Phillips Products Company	88-0410	12/04/87
(16) K.A.C., Inc., Richard Hensley, Dayton Extruded Plastics, Inc. and Sandlin Properties	88-0411	12/04/87
(17) K.A.C., Inc., Robert Buhman, Dayton Extruded Plastics, Inc. and Sandlin Properties	88-0412	12/04/87
(18) R.T. Holding S.A., International Cheese Co., Inc., International Cheese Co., Inc.	88-0422	12/04/87
(19) Coeur d'Alene Mines Corporation, Royal Apex Silver, Inc., Royal Apex Silver, Inc.	88-0438	12/04/87

FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay, Contact
Representative, Premerger Notification
Office, Bureau of Competition, Room
301, Federal Trade Commission,
Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 88-1206 Filed 1-21-88; 8:45 am]

BILLING CODE 6750-01-M

**Granting of Request for Early
Termination of the Waiting Period
Under the Premerger Notification
Rules**

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies,

in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 12-24-87 AND 12-31-87

Name of Acquiring Person, Name of Acquired Person, Name of acquired Entity	PMN No.	Date terminated
(1) Joslyn Corporation, Roy Coats Family Trust, Sunbank Family of Companies, Inc.	88-0348	12/24/87
(2) Southmark Corporation, Mercury Savings Association of Texas, Mercury Savings Association of Texas	88-0478	12/24/87
(3) Eastman Kodak Company, Ektra Photofinishing Corporation, Ektra Photofinishing Corporation	88-0513	12/24/87
(4) Fuqua Industries, Inc., Ektra Photofinishing Corporation, Ektra Photofinishing Corporation	88-0514	12/24/87
(5) Donald G. Jones, First Carolina Cable TV, L.P., Big River Cablevision, Inc. and Denmark Cablevision	88-0515	12/24/87
(6) FPL Group, Inc., Citrus World, Inc., Citrus World, Inc.	88-0532	12/24/87
(7) MAI Basic Four, Inc., Bell Atlantic Corporation, Sorbus Inc.	88-0563	12/24/87
(8) Citicorp, Santa Fe Southern Pacific Corporation, Bankers Leasing and Financial Corporation	88-0582	12/24/87
(9) Snyder Oil Partners, L.P., Graham-McCormick Oil & Gas Partnership, Graham-McCormick Oil & Gas Partnership	88-0397	12/28/87
(10) Las Vegas Investors Ltd., Carma Ltd., Bourbon Street Hotel & Casino, Inc.	88-0425	12/28/87
(11) IC Industries, Inc., PepsiCo, Inc., PepsiCo, Inc.	88-0458	12/28/87
(12) PepsiCo, Inc., IC Industries, Inc., Pepsi-Cola General Bottlers, Inc.	88-0459	12/28/87
(13) The Edward W. Scripps Trust, American Cable TV Investors 3, American Cable TV Investors 3	88-0494	12/28/87
(14) Mutual of America Life Insurance Company, Allied Investment Corporation, Allied Investment Corporation	88-0497	12/28/87
(15) Reebok International Ltd., Leonardo Servadio, Ellesse U.S.A. Inc./Ellesse International S.p.A.	88-0535	12/28/87
(16) The St. Paul Companies, Inc., Minot Holdings PLC, Minot Holdings PLC	88-0549	12/28/87
(17) Margaret Elardi, Estate of Howard R. Hughes, Jr., Summa Corporation	88-0588	12/28/87
(18) Atang Label, American Realty Trust, American Realty Trust	88-0591	12/28/87
(19) Franklin Savings Corporation, Federal Savings and Loan Insurance Corporation as receiver, Bowman & Company, Incorporated	88-0593	12/28/87
(20) Gannett Co., Inc., HHC Holding, Inc., Television 12 of Jacksonville, Inc. & WFMY Television	88-0598	12/28/87
(21) Carena Holdings Limited, JMB Income Properties, LTD-VI, JMB Income Properties, LTD-VI	88-0610	12/28/87
(22) Carena Holdings Limited, JMB Income Properties, LTD-V, JMB Income Properties, LTD-V	88-0611	12/28/87
(23) Carena Holdings Limited, JMB Income Properties, LTD-III, JMB Income Properties, LTD-III	88-0612	12/28/87
(24) Melia International N.V., The Cannon Group, Inc., Commonwealth Theatres, Inc.	88-0310	12/29/87
(25) CBC Associates, Antonia A. Johnson, I.D.E. Corporation	88-0550	12/29/87
(26) Lucas Industries plc, Lear Siegler Holdings Corp., Lear Siegler Power Equipment Corp.	88-0551	12/29/87
(27) Kirin Brewery Company, Limited, Charles E.F. Millard, The Coca-Cola Bottling Company of Northern New England	88-0558	12/29/87
(28) Hadson Corporation, Ultrasystems Incorporated, Ultrasystems Incorporated	88-0566	12/29/87
(29) Franciscan Sisters Health Care Corporation, Missionary Sisters Health Care Corporation, St. Therese Medical Center & Neoteric Enterprises	88-0583	12/29/87
(30) Memorex International N.V., The Telex Corporation, The Telex Corporation	89-0584	12/29/87
(31) E-11 Holdings, Inc., American Brands, Inc., American Brands, Inc.	88-0501	12/30/87
(32) Cantel Corporation, Voting Trust of The Providence Journal Company, Virginia Metronet, Inc.	88-0539	12/30/87
(33) George S. Mann, PCL Industries Limited, PCL Industries Limited	88-0597	12/30/87
(34) Western Digital Corporation, Tandon Corporation, Tandon Corporation	88-0606	12/30/87
(35) Deluxe Check Printers, Incorporated, Primerica Corporation, Loart Press, Inc.	88-0421	12/31/87
(36) Craig O. McCaw, Voting Trust for MFC, Inc. Voting Trust, Voting Trust of The Providence Journal Company, Providence Journal Cellular Radio, Inc.	88-0541	12/31/87
(37) Voting Trust of The Providence Journal Company, Craig O. McCaw, Voting Trustee for MFC, Inc. Voting Trust, Craig O. McCaw, Voting Trustee for MFC, Inc. Voting Trust	88-0542	12/31/87
(38) Burlington Northern, Inc., Sun Company, Inc., Sun Exploration and Production Company	88-0574	12/31/87
(39) Kenneth R. Thomson, Thomas E. Worrell, Jr., two newspapers in WV	88-0575	12/31/87
(40) Kenneth R. Thomson, c/o The Thomson Corp., Limited, HHC Holding Inc., Eagle Publications	88-0578	12/31/87
(41) Thomas E. Worrell, Jr., Kenneth R. Thomson, Eagle Printing Company	88-0579	12/31/87

FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay, Contact
Representative, Premerger Notification
Office, Bureau of Competition, Room
301, Federal Trade Commission,
Washington, DC 20580 (202) 326-3100.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 88-1207 Filed 1-21-88; 8:45 am]

BILLING CODE 6750-01-M

**GENERAL SERVICES
ADMINISTRATION**

**Requote Procurement Procedures for
Orders Exceeding the Maximum Order
Limitation on Multiple Award
Schedules**

AGENCY: Federal Supply Service, GSA.

ACTION: Requote procurement procedures for orders exceeding the maximum order limitation [MOL] on multiple award schedules.

SUMMARY: A new procedure for Multiple

Award Federal Supply Schedules has been developed. This procedure named "requote" will be used in selected schedules and allows for requirements exceeding the Maximum Order Limitations (MOL) to be competed between existing schedule contractors. Current contractors on the Federal Supply Schedule will be given exclusive rights to compete under the contract for requirements which exceed the largest maximum order limitation for the applicable special item number. Agencies may either elect to submit the

requirement which exceeds the MOL to Federal Supply Service (FSS) for procurement action or conduct the quote procedure themselves pursuant to the procedures established in the schedule.

ADDRESS: General Services Administration, Federal Supply Service, Office of Commodity Management (FC), Procurement Management Division (FCP), 1941 Jefferson Davis Highway, Crystal Mall Building #4, Room 724, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Walter L. Eckbreth, Director, Procurement Management Division on (703) 557-1936.

SUPPLEMENTARY INFORMATION: Requirements exceeding the MOL have been obtained through separate definite quantity procurements. While savings (lower prices) were obtained as a result of the separate contract actions, there was a significant administrative burden as a result of the process. There was also a delay in providing the needed supplies and services to the agency users.

Date: January 12, 1988.

Walter L. Eckbreth,

Director, Procurement Management Division.

[FR Doc. 88-1263 Filed 1-21-88; 8:45 am]

BILLING CODE 6820-24-M

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer will hold its Spring meeting March 9-11, 1988, at the Sheraton Charleston Hotel, Charleston, South Carolina. Reservations: (803) 723-3000

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Anyone who wishes to attend should notify the Conference Manager, David H. Brown, U.S. Government Printing Office 20401. Telephone: (202) 275-2255.

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chair.

Ralph E. Kennickell, Jr.,

Public Printer.

[FR Doc. 88-1188 Filed 1-21-88; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Commission on Nursing; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following national advisory body scheduled to meet during the month of February 1988:

Name: Secretary's Commission on Nursing

Date: February 5, 1988

Time: 8:30 a.m.

Place: Room 800, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201

Purpose: The Secretary's Commission on Nursing will advise the Secretary of Health and Human Services on how the public and private sectors can work together to address problems and implement solutions regarding the supply of active registered nurses. The Commission will also consider the recruitment and retention of nurses in the U.S. Public Health Service, the Veteran's Administration and the Department of Defense. As appropriate for its work, the Commission will consider the findings of studies which are relevant to the development of a multi-year action plan for implementation by the public and private sectors.

Agenda: This is the first meeting of the Secretary's Commission on Nursing. The agenda will include an overview of current information on the supply of nurses, preliminary discussions of key issues affecting nurse recruitment and retention, identification of next steps in the Commission's deliberations, a tentative schedule for future meetings and other topics at the pleasure of the Commission.

Agenda items are subject to change as priorities dictate. Anyone wishing information regarding the Commission should contact the Secretary's Commission on Nursing, Hubert H. Humphrey Building, Room 616E, 200 Independence Avenue, SW., Washington, DC 20201. Telephone (202) 245-0409.

Date: January 19, 1988.

Lillian K. Gibbons, R.N., Dr. P.H.

Executive Director, Secretary's Commission on Nursing.

[FR Doc. 88-1366 Filed 1-20-88; 11:59 am]

BILLING CODE 4150-04-M

Agency for Toxic Substances and Disease Registry

[ATSDR-2; FRL-3269-7]

Correction to Public Comment Period for Certain Toxicological Profiles

AGENCY: Department of Health and Human Services (DHHS); Agency for Toxic Substances and Disease Registry (ATSDR).

ACTION: Notice.

SUMMARY: The Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99-499) amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*) by establishing certain requirements for the Agency for Toxic Substances and Disease Registry (ATSDR) of DHHS with regard to hazardous substances which are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance previously included on the first priority list of 100 chemicals. The list identifying the first 100 chemicals determined to pose the most significant potential threat to human health was published in the *Federal Register* on April 17, 1987 (52 FR 12866), as required by CERCLA 104(i)(2)(A). The dates when the first 25 draft toxicological profiles were expected to be available for public review and comment were published in the *Federal Register* on October 15, 1987 (52 FR 38340), with notice that a 90-day public comment period would be provided for each profile, starting from the actual release date. The close of the comment period for each draft profile was to be indicated on the front of each profile.

This notice announces corrections to the dates indicated on 9 of the first 25 draft toxicological profiles.

Revised Dates for End of Public Comment Period

The revised dates indicated below will supersede those which are stamped on the front cover of the specified profiles. These corrections allow a 90-day public comment period starting from the actual release date.

ATSDR TOXICOLOGICAL PROFILE PUBLIC
COMMENT PERIODS

Chemical	CAS No.	End of public comment period	
		Original date	Revised date
Aldrin/Dieldrin.....	309-00-2/60-5	1-26-88	2-17-88
Arsenic.....	7440-38-2	1-26-88	2-09-88
Benzo(a)pyrene.....	50-32-6	1-16-88	1-23-88
Benzo(b)fluoranthene.....	205-99-2	1-26-88	2-03-88
Beryllium.....	7440-41-7	1-16-88	1-23-88
Chloroform.....	67-66-3	1-16-88	1-30-88
Heptachlor/Heptachlor epoxide.....	76-44-8/1024-57-3	1-16-88	2-02-88
Nickel.....	7440-02-0	1-16-88	1-30-88
N-Nitrosodiphenylamine.....	7440-02-0	1-16-88	1-23-88

The public comment period for the remaining profiles is correct as printed on the front cover.

As indicated in the *Federal Register* announcement of October 15, 1987 (52 FR 38340), five copies of all comments are required. The comments should be submitted to: Ms. Georgi Jones, Director, Office of External Affairs, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road NE., Mail Stop F-38, Atlanta, Georgia 30333.

Dated: January 19, 1988.

James O. Mason,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 88-1373 Filed 1-21-88; 8:45 am]

BILLING CODE 4160-70-M

Public Health Service

National Toxicology Program;
Notification of the Disposal of Wet
Tissues From Toxicology and
Carcinogenesis Studies Stored in the
National Toxicology Program Archives

The National Toxicology Program (NTP) Archives currently maintains records and pathology materials for over 300 National Cancer Institute (NCI) and NTP toxicology and carcinogenesis studies, some of which were started and completed more than ten years ago. The storage space for the wet tissues (animal organs and carcasses in formalin), paper data and paraffin blocks is no longer adequate and additional storage space would be required. Since most of these studies were completed ten or more years ago, and for most studies histological slides and microfiche copy of paper data are available, we plan to discard the wet tissues, paper data and paraffin blocks from selected studies

where it is anticipated that there is either little current interest or the tissues are considered no longer viable. The histological slides and microfiche copy of paper data will remain available for these studies.

Attached is the fourth list of studies for which the wet tissues, paper data and paraffin blocks are to be discarded. (The first list was published in the *Federal Register* on September 19, 1986, 51 FR 33303-33304; the second list on February 9, 1987, 52 FR 4060-4062; and the third list on September 21, 1987, 52 FR 35483-35486.) The chemicals are from studies conducted at laboratories under contract to NCI or NTP and where the final sacrifice occurred prior to 1977. Anyone who has questions about the studies listed should contact Dr. Gary A. Boorman, Project Officer for the NTP Archives, by telephone at (919) 541-3440, FTS 629-3440, or in writing at NIEHS, MD C2-01, P.O. Box 12233, Research Triangle Park, NC 27709.

If no objections are received by 30 days after publication of this notice, the formalin fixed wet tissues, paper data and paraffin blocks from these studies will be discarded.

Dated: January 12, 1988.

David P. Rall,

Director, National Toxicology Program.

PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY AND CARCINOGENESIS STUDIES

Exp. No./Chemical	Single dose study		14-Day study		90-Day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
C02108 Acetamide..... TR-162.	11/00/70A		01/00/71A		02/00/71A	08/00/71A	01/00/70A	08/00/73A
C03247 Acetohexamide..... TR-050 P It is concluded that under the conditions of this bioassay, acetohexamide was not carcinogenic for either Fischer 344 rats or B6C3F1 mice.	09/00/72A		11/00/72A		12/00/72A	06/00/73A	09/00/73A	10/00/75A
C00384A 2-Acetylaminofluorene..... Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.							03/15/69A	03/15/71A
C00384B 2-Acetylaminofluorene..... Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.							01/15/71A	03/15/75A
C00384C 2-Acetylaminofluorene..... Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.	09/00/70A		11/00/70A		12/00/70A	08/00/71A	09/00/71A	12/00/73A
C00384D 2-Acetylaminofluorene..... Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.	02/00/71A		04/00/71A		05/00/71A	10/00/71A	02/00/72A	04/00/73A
C00384E 2-Acetylaminofluorene..... Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.	05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	06/00/74A
C00384F 2-Acetylaminofluorene..... Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.	03/00/72A		05/00/72A		06/00/72A	11/00/72A	02/00/73A	03/00/75A
C00384G 2-Acetylaminofluorene..... Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.							03/15/73A	02/15/75A
C00384H 2-Acetylaminofluorene..... Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.	11/00/70A		01/00/71A		02/00/71A	08/00/71A	03/00/73A	03/00/75A
C04739 1-Acetyl-2-Picolinoly hyd..... Ref. No. 21 Positive controls and studies with inadequate data. Data inconclusive—No Technical Report issued.	06/00/68A		08/00/68A		09/00/68A	03/00/69A	06/00/69A	07/00/71A
C03190 N-(4-(9-Acridinylamino)-3..... Ref. No. 21 Positive controls and studies with inadequate data. Date inadequate, no report. DEG 12/18/76, Recommends no report: (1) Inadequate survival in treated groups. (2) No statistically significant occurrence of tumors.	10/00/72A		12/00/72A		01/00/73A	06/00/73A	10/00/73A	02/00/76A
D01538 Acronycine.....	02/00/71A		04/00/71A		05/00/71A	12/00/71A	02/00/72A	02/00/76A

PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY AND CARCINOGENESIS STUDIES—Continued

Exp. No./Chemical	Single dose study		14-Day study		90-Day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
TR-049 P Under the conditions of this bioassay, the low survival of the dosed and control mice and the possible procedural problems associated with intraperitoneal injection of the chemical do not allow a determination to be made of the carcinogenicity of acronycine in this species. In Sprague-Dawley rats, acronycine in the vehicle of 0.05% polysorbate 80 in phosphate-buffered saline was carcinogenic, producing tumors of the mammary gland in females, osteosarcomas in males, and sarcomas and other related tumors of the peritoneum in both males and females.								
C04682 Actinomycin D	03/00/68A		05/00/68A		06/00/68A	11/00/68A	03/00/69A	03/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual component.								
C02095 Adipamide	11/00/70A		01/00/71A		02/00/71A	08/00/71A	11/00/71A	04/00/73A
Ref. No. 21 Positive controls and studies with inadequate data. Data inconclusive—No Technical Report issued.								
C01887 3-Amino-4-ethoxyacetanilid	05/00/71A		07/00/71A		08/00/71A	02/00/72A	05/00/72A	03/00/75A
TR-112 P Under the conditions of this bioassay, 3-Amino-4-ethoxyacetanilid was carcinogenic in male B6C3F1 mice, causing follicular-cell carcinomas of the thyroid gland. Evidence provided by this bioassay was insufficient to establish the carcinogenicity of 3-Amino-4-ethoxyacetanilid in female mice or in Fischer 344 rats of either sex.								
C03043 3-Amino-9-ethylcarbazole	07/00/71A		09/00/71A		10/00/71A	11/00/72A	03/00/72A	03/00/75A
TR-093 P It is concluded that under the conditions of this bioassay, 3-Amino-9-Ethylcarbazole (Hydrochlorid) was carcinogenic for the liver, inducing hepatocellular carcinomas in Fischer 344 rats and B6C3F1 mice of both sexes. Other tumors induced in the rats were carcinomas or papillomas of the integumentary system in males, carcinomas of the Zymbal's gland of the ear in males and females, and adenocarcinomas of the uterus.								
C01898 3-Amino-9-Ethylcarbazole. Materials present in archives from Mason Lab.								
C01901 1-Amino-2-Methylantraquin	09/00/71A		11/00/71A		12/00/71A	05/00/72A	09/00/72A	10/00/74A
TR-111 P Carcinomas in rats of both sexes, and kidney tumors in male rats. The compound was carcinogenic in female B6C3F1 mice, producing liver—hepatocellular carcinoma, neoplastic nodule-F344 rate female, B6C3F1 mouse female. Kidney—adenocarcinoma(nos), tubular-cell adenoma & adenocarcinoma-F344 rat male an increased combined incidence of hepatocellular carcinomas and neoplastic nodules.								
C03963 4-Amino-2-Nitrophenol	03/00/73A		05/00/73A		06/00/73A	12/00/73A	03/00/74A	04/00/76A
TR-094 P Under the conditions of this bioassay, technical-grade 2,4-Diaminoanisole sulfate was carcinogenic to both sexes of both species. In Fischer 344 rats dietary administration of the chemical induced increased incidences of malignant tumors of the skin and its associated glands and malignant thyroid tumors in each sex. In B6C3F1 mice, dietary administration of 2,4-Diaminoanisole sulfate induced thyroid tumors in each sex.								
C00373A 3-Aminotriazole	10/00/70A		12/00/70A		01/00/71A	10/00/71A	10/00/71A	02/00/74A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.								
C00373B 3-Aminotriazole	09/00/71A		11/00/71A		12/00/71A	05/00/72A	09/00/72A	10/00/74A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.								
C00373C 3-Aminotriazole	08/00/71A		10/00/71A		11/00/71A	05/00/72A	08/00/72A	11/00/74A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.								
C00373D 3-Aminotriazole	11/00/71A		01/00/72A		02/00/72A	10/00/72A	11/00/72A	11/00/74A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.								
C00373E 3-Aminotriazole	11/00/71A		01/00/72A		02/00/72A	07/00/72A	11/00/72A	03/00/75A
Ref. No. 21 Positive controls and studies with inadequate data. Positive control—No Technical Report issued.								
C03736 Aniline Hydrochloride	07/00/72A		09/00/72A		10/00/72A	03/00/73A	07/00/73A	07/00/75A
TR-130 P Under the conditions of this bioassay, dietary administration of Aniline Hydrochloride was carcinogenic to male and female Fischer 344 rats, inducing hemangiosarcomas and a combination of fibrosarcomas and sarcomas nos of the spleen and a combination of fibrosarcomas and sarcomas nos of multiple body organs. There was no evidence of compound-induced carcinogenicity in B6C3F1 mice of either sex.								
C03747 O-Anisidine Hydrochloride	03/00/73A		05/00/73A		06/00/73A	11/00/73A	03/00/74A	03/00/76A
TR-089 P Under the conditions of this bioassay, O-Anisidine Hydrochloride was carcinogenic for Fischer 344 rats and B6C3F1 mice, inducing transitional-cell carcinomas or papillomas of the bladder in both rats and mice and in both sexes of each species, transitional-cell carcinomas of the pelvis of the kidney in male rats, and follicular-cell tumors of the thyroid male rats.								
C03758 P-Anisidine Hydrochloride	03/00/72A		05/00/72A		06/00/72A	11/00/72A	03/00/74A	03/00/76A
TR-116 P Although, under the conditions of this bioassay, there appeared to be an association between chemical administration and the increased incidence of preputial gland tumors in low dose male rats, and evidence was insufficient to establish the carcinogenicity of P-Anisidine Hydrochloride in Fischer rats. The compound was not carcinogenic in B6C3F1 mice.								
C01730 O-Anthranilic Acid	01/00/72A		03/00/72A		04/00/72A	11/00/72A	01/00/73A	03/00/75A
TR-036 P It is concluded that under the conditions of this bioassay, Anthranilic Acid was not carcinogenic for either Fischer 344 rats or B6C3F1 mice.								
C02120 1-Arginine Glutamate	10/00/70A		12/00/70A		01/00/71A	06/00/71A	10/00/71A	02/00/73A
Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate—No Technical Report issued.								
C02697 Aspirin, Phenacetin, And	06/00/71A		08/00/71A		09/00/71A	03/00/72A	06/00/72A	06/00/74A
TR-067 P Under the conditions of this bioassay evidence was not sufficient for the carcinogenicity of APC in Fischer 344 rats or in B6C3F1 mice.								
C06393 Avadex Old Litton contract 69/1074 from Litton Lab.								
C03474 Azathioprine	06/00/68A		08/00/68A		09/00/68A	02/00/69A	06/00/69A	06/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compound were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C02926 Azobenzene							06/15/73A	07/15/75A
TR-154 P It is concluded that under the conditions of this bioassay, Azobenzene was carcinogenic (sarcomagenic) for F344 rats, inducing various types of sarcomas in the spleen and other abdominal organs of both males and females. The test chemical was not carcinogenic for B6C3F1 mice of either sex.								
C03521 1,2,3-Benzotriazole	05/00/72A		07/00/72A		08/00/72A	03/00/73A	05/00/73A	07/00/75A
TR-088 P In female B6C3F1 mice there was an increased incidence of alveolar/bronchiolar carcinomas, suggesting a possible carcinogenic effect of 1H-Benzotriazole. In Fischer 344 rats there was an increased incidence of brain tumors, suggesting a possible carcinogenic effect. However, there was no convincing evidence that under the conditions of this bioassay 1H-Benzotriazole was carcinogenic in B6C3F1 mice or Fischer 344 rats of either sex.								
C04773 1,3-Bis(Chloroethyl)-1-Ni	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C06382 Bis (2-Hydroxyethyl) Dithiocarbamic Acid Old Litton contract 69/1052, 69/1053 from Litton Lab.								
C03598 Butylated Hydroxytoluene							11/15/73A	03/15/76A

PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY AND CARCINOGENESIS STUDIES—Continued

Exp. No./Chemical	Single dose study		14-Day study		90-Day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
TR-150 P	It is concluded that under the conditions of this bioassay, BHT was not carcinogenic for F344 rats or B6C3F1 mice.							
C02131 N-Butylurea TR-167	05/00/71A		07/00/71A		08/00/71A	02/00/72A	05/00/72A	03/00/74A
C02937 Calcium Cyanamide TR-163 P	It is concluded that under the conditions of this bioassay, the test formulation of calcium cyanamide was not carcinogenic for F344 rats or B6C3F1 mice of either sex.							
C03452A Carbon Tetrachloride Ref. No. 21	06/00/71A		08/00/71A		09/00/71A	08/00/72A	06/00/72A	11/00/74A
Positive controls and studies with inadequate data. Positive control—No Technical Report issued.								
C03452B Carbon Tetrachloride Ref. No. 19	Chemicals withdrawn. Withdrawn by TDC Meeting 2/19/86.							
C03905 Carbromal TR-173 P	05/00/72A		07/00/72A		08/00/72A	04/00/73A	05/00/73A	06/00/75A
Under the conditions of this bioassay, dietary administration of Carbromal was not carcinogenic in Fischer 344 rats or B6C3F1 mice.								
C03805 Carbromal Boxed with C02175 from Litton Lab.								
C03485 Chlorambucil TR-00A P	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C03770 4-(Chloroacetyl)Acetanilid TR-177 P	11/00/72A		01/00/73A		02/00/73A	10/00/73A	11/00/73A	02/00/76A
Under the conditions of this bioassay, 4-(Chloroacetyl)Acetanilid was not carcinogenic when administered in the diet to Fischer 344 rats or B6C3F1 mice of either sex.								
C00408 Chlorobenzilate TR-075 P	05/00/70A		07/00/70A		08/00/70A	03/00/71A	05/00/71A	06/00/73A
Under the conditions of this bioassay, orally administered Chlorobenzilate was carcinogenic in male and female B6C3F1 mice, causing an increased incidence of hepatocellular carcinomas. The results do not, however, provide sufficient evidence for the carcinogenicity of Chlorobenzilate in Osborne-Mendel rats.								
C02960 2-Chloroethyltrimethylamm TR-158 P							07/15/73A	02/15/76A
It is concluded that under the conditions of this bioassay, (2-Chloroethyl)Trimethylammonium chloride was not carcinogenic for F344 rats or B6C3F1 mice of either sex.								
C02686 Chloroform TR-00C P	02/00/71A		04/00/71A		05/00/71A	01/00/72A	02/00/72A	04/00/74A
Significant increase in kidney epithelial tumors in male rats, highly significant increase in hepatocellular carcinoma observed in both sexes of mice, nodular hyperplasia of liver in many low dose male mice which had not developed hepatocellular.								
C03907 2-Chloromethylpyridine Hy TR-178	11/00/72A		01/00/73A		02/00/73A	12/00/73A	11/00/73A	04/00/76A
Under the conditions of this bioassay, administration of 2-(Chloromethyl) Pyridine Hydrochloride was not carcinogenic to Fischer 344 rats or B6C3F1 mice.								
C03838 3-Chloromethylpyridine Hy TR-095 P	10/00/72A		12/00/72A		01/00/73A	07/00/73A	10/00/73A	11/00/75A
Under the conditions of this bioassay, 3-(Chloromethyl)Pyridine hydrochloride was carcinogenic in male Fischer 344 rats and B6C3F1 mice of both sexes, producing papillomas and carcinomas of the forestomach, neoplastic lesions related to chemical administration were restricted to the site of topical application, the stomach.								
C03305 4-Chloro-M-Phenylenediami TR-085 P	04/00/72A		06/00/72A		07/00/72A	12/00/72A	04/00/73A	04/00/75A
Dietary administration of 4-Chloro-M-Phenylenediamine was carcinogenic to the experimental animals, causing an increased incidence of hepatocellular tumors in female B6C3F1 mice, and an increased incidence of adrenal pheochromocytomas in male Fischer 344 rats.								
C03292 4-Chloro-O-Phenylenediami TR-083 P	03/00/72A		05/00/72A		06/00/72A	11/00/72A	03/00/73A	03/00/75A
It is concluded that under the conditions of this bioassay 4-Chloro-O-Phenylenediamine was carcinogenic in Fischer 344 rats and B6C3F1 mice, inducing tumors of the urinary bladder and forestomach in both sexes of rats and hepatocellular carcinomas in both sexes of mice.								
C03316 2-Chloro-P-Phenylenediami TR-113 P	08/00/72A		10/00/72A		11/00/72A	04/00/73A	08/00/73A	08/00/75A
Under the conditions of this bioassay there was insufficient evidence that dietary administration of 2-Chloro-P-Phenylenediamine Sulfate was carcinogenic to Fischer 344 rats or B6C3F1 mice.								
C05533 Chloropicrin TR-065 P	03/00/71A		05/00/71A		06/00/71A	01/00/72A	03/00/72A	04/00/74A
The bioassay of Chloropicrin using Osborne-Mendel rats did not permit an evaluation of carcinogenicity because of the short survival time of dosed animals. The bioassay of Chloropicrin using B6C3F1 mice did not provide conclusive statistical evidence for the carcinogenicity of this compound.								
C02040 3-Chloro-P-Toluidine TR-145 P	07/00/71A		09/00/71A		10/00/71A	04/00/72A	07/00/72A	08/00/74A
Under the conditions of this bioassay there was no convincing evidence for the carcinogenicity of 3-Chloro-P-Toluidine in Fischer 344 rats or B6C3F1 mice.								
C02051 5-Chloro-O-Toluidine TR-187 P	08/00/71A		10/00/71A		11/00/71A	08/00/72A	08/00/72A	12/00/74A
Under the conditions of this bioassay, 5-Chloro-O-Toluidine was carcinogenic to B6C3F1 mice, inducing hemangiosarcomas and hepatocellular carcinomas in both males and females. There was no conclusive evidence of the carcinogenicity of the compound in Fischer 344 rats.								
C01752 Chlorpropamide TR-045 P	07/00/72A		09/00/72A		10/00/72A	03/00/73A	07/00/73A	07/00/75A
It is concluded that under the conditions of this bioassay, Chlorpropamide was not carcinogenic for Fischer 344 rats or B6C3F1 mice.								
C03565 C.I. VAT YELLOW 4 TR-134 P							09/15/73A	09/15/75A
It is concluded that under the conditions of this bioassay, the formulated product containing C.I. Vat Yellow 4 was not carcinogenic for male or female Fischer 344 rats or for female B6C3F1 mice, but was carcinogenic for male B6C3F1 mice, causing an increased incidence of lymphomas.								
C03510 Cinnamyl Anthranilate TR-196 P	10/00/73A		12/00/73A		03/00/73A	02/00/75A	10/00/74A	12/00/76A
Carcinogenic for Male F344 rats inducing low incidence of two rare tumors: acinar cell carcinomas or adenomas of the pancreas (2/2, 0/48, 3/45), and adenocarcinomas of adenomas of the renal cortex (0/48, 0/50, 4/49); not carcinogenic for female F344 rats. Carcinogenic for B6C3F1 mice, inducing hepatocellular adenomas in males (8/48, 23/50*, 29/47*); carcinomas were increased also 6/48, 7/50, 12/47) and in females causing hepatocellular carcinomas (1/50, 8/49*, 14/49*) and adenomas (2/50, 14/49*, 19/49*).								
C00431 Clonitralid TR-091 P	11/00/70A		01/00/71A		02/00/71A	11/00/71A	11/00/71A	12/00/73A
Under the conditions of this bioassay, there was no convincing evidence that Clonitralid was carcinogenic to Osborne-Mendel rats or to female B6C3F1 mice. Poor survival of male mice did not permit an evaluation of carcinogenicity in these animals.								
C02993 M-Cresidine TR-105 P	01/00/72A		03/00/72A		04/00/72A	09/00/72A	01/00/73A	02/00/75A
Under the conditions of this bioassay, M-Cresidine was carcinogenic to Fischer 344 rats, causing papillary transitional-cell carcinomas of the urinary bladder in both sexes. No convincing evidence was provided for carcinogenicity in female B6C3F1 mice. Poor survival of male B6C3F1 mice receiving M-Cresidine precluded evaluation of the possible carcinogenicity of the compound in these animals.								
C02982 P-Cresidine TR-142 P	05/00/72A		07/00/72A		08/00/72A	01/00/74A	05/00/73A	05/00/75A
Under the conditions of this bioassay, P-Cresidine was carcinogenic to Fischer 344 rats, causing increased incidences of carcinomas and of papillomas of the urinary bladder in both sexes, increased incidences of olfactory neuroblastomas in both sexes, and of liver tumors in males. P-Cresidine was also carcinogenic in B6C3F1 mice, causing carcinomas of the urinary bladders in both sexes and hepatocellular carcinomas in females.								
C04900 Cyclophosphamide TR-00A P	05/00/68A		07/00/68A		08/00/68A	01/00/69A	05/00/69A	50/00/71A
Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04728 Cytarabine	06/00/68A		08/00/68A		09/00/68A	09/00/69A	05/00/69A	10/00/72A

PROPOSED DISPOSAL OF WET-TISSUES FOR TOXICOLOGY AND CARCINOGENESIS STUDIES—Continued

Exp. No./Chemical	Single dose study		14-Day study		90-Day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04922 Cytosol Alcohol.....	09/00/68A		11/00/68A		12/00/68A	05/00/69A	09/00/69A	09/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04717 Dacarbazine.....	07/00/68A		09/00/68A		10/00/68A	07/00/69A	07/00/69A	11/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04693 Daunomycin.....	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	40/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04933 O,P'-DDD.....	09/00/68A		11/00/68A		12/00/68A	05/00/69A	09/00/69A	09/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual component.								
C03894 2'-Deoxy-5-Fluoro-Uridine. 1 Box wet tissue from Litton Lab.								
C04808 (4,4'-Diacyldiphenylure..... Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate—No technical report issued.	08/00/68A		10/00/68A		11/00/68A	05/00/69A	08/00/69A	09/00/71A
C01989 2,4-Diaminoanisole Sulfat..... TR-084 P Under the conditions of this bioassay, technical-grade 2,4-Diaminoanisole Sulfate was carcinogenic to both sexes of both species. In Fischer 344 rats dietary administration of the chemical induced increased incidences of malignant tumors of the skin and its associated glands and malignant thyroid tumors in each sex. In B6C3F1 mice, dietary administration of 2,4-Diaminoanisole Sulfate induced thyroid tumors in each sex.	04/00/71A		06/00/71A		07/00/71A	03/00/72A	04/00/72A	03/00/75A
C02302 2,4-Diaminotoluene..... TR-162 P Under the conditions of this bioassay, 2,4-Diaminotoluene was carcinogenic for F344 rats, inducing hepatocellular carcinomas or neoplastic nodules in both males and females and carcinomas or adenomas of the mammary gland in females. The test chemical was also carcinogenic for female B6C3F1 mice, inducing hepatocellular carcinomas. The incidence of lymphomas in the female mice suggested that these tumors also may have been related to administration of the test chemical.							10/15/73A	02/15/76A
C03269 Diarylanilide Yellow..... TR-030 P The results of this study did not provide evidence for the carcinogenicity of Diarylanilide Yellow in Fischer 344 rats or B6C3F1 mice.	03/00/72A		05/00/72A		06/00/72A	11/00/72A	03/00/73A	03/00/75A
C03656A Dibenzo-P-Dioxin..... TR-122 P It is concluded that under the conditions of this bioassay, UDD was not carcinogenic for Osborne-Mendel rats or B6C3F1 mice.							01/00/72A	09/00/75A
C03656B Dibenzo-P-Dioxin..... Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate—No technical report issued. Additional study completed by dosed-feed (C03656A).							01/15/72A	09/15/75A
C04795 Dibromodulcitol..... TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual component.	07/00/68A		09/00/68A		10/00/68A	04/00/69A	07/00/69A	08/00/71A
C04762 Dibromomannitol..... TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.	08/00/68A		10/00/68A		11/00/68A	07/00/69A	08/00/69A	11/00/71A
C02028 Dibutyltin Diacetate..... TR-183 P Under the conditions of this bioassay, there was no conclusive evidence for the carcinogenicity of Dibutyltin Diacetate in male Fischer 344 rats or B6C3F1 mice of either sex. The loss of tissues taken from high dose female rats in this bioassay precluded an evaluation of the carcinogenicity of Dibutyltin Diacetate to female Fischer 344 rats.	06/00/72A		08/00/72A		09/00/72A	04/00/73A	06/00/73A	08/00/75A
C03667A 2,7-Dichlorodibenzo-P-Dio..... Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate—No technical report issued. Additional study completed by dosed feed (C03667B).							11/15/71A	09/15/75A
C03667B 2,7-Dichlorodibenzo-P-Dio..... TR-123 P It is concluded that under the conditions of this bioassay, DCDD was not carcinogenic for Osborne-Mendel rats of either sex or for female B6C3F1 mice. The marginal increased incidences of combinations of leukemias and lymphomas, of hemangiosarcomas and hemangiomas, and of hepatocellular carcinomas and adenomas in male B6C3F1 mice are, however, considered as suggestive of a carcinogenic effect of 2,7-Dichlorodibenzo-P-Dioxin in these animals.						05/00/72A	09/00/75A	
C00555 P,P'-Dichlorodiphenoldich..... TR-131 P Under the conditions of this bioassay there was no evidence for the carcinogenicity of P,P'-DDE in Osborne-Mendel rats, although P,P'-DDE was hepatotoxic in Osborne-Mendel rats. The findings suggest a possible carcinogenic effect of TDE in male Osborne-Mendel rats, based on the induction of combined follicular-cell carcinomas and follicular-cell adenomas of the thyroid. Because of the variation of these tumors in control male rats in this study, the evidence does not permit a more conclusive interpretation of these lesions. P,P'-DDE was carcinogenic in B6C3F1 mice, causing hepatocellular carcinomas in both sexes.	07/00/70A		09/00/70A		10/00/70A	10/00/71A	07/00/71A	11/00/73A
C00464 Dichlorodiphenyltrichloro..... TR-131 P Under the conditions of this bioassay there was no evidence for the carcinogenicity of DDT in Osborne-Mendel rats or B6C3F1 mice.	06/00/70A		08/00/70A		09/00/70A	10/00/71A	06/00/71A	11/00/73A
C00511A 1,2-Dichloroethane..... TR-055 P Under the conditions of this study, 1,2-Dichloroethane was carcinogenic to Osborne-Mendel rats, causing squamous-cell carcinomas of the forestomach, hemangiosarcomas, and subcutaneous fibromas in male rats and causing mammary adenocarcinomas in female rats. This compound was also found to be carcinogenic to B6C3F1 mice, causing mammary adenocarcinomas and endometrial tumors in female mice, and causing alveolar/bronchiolar adenomas in mice of both sexes.	03/00/71A		05/00/71A		06/00/71A	03/00/72A	03/00/72A	05/00/74A
C00511B 1,2-Dichloroethane..... Ref. No. 5 Prechronic studies in progress. No mice: M: 0, 30, 61, 122, 243, 487 MG/KG. F: 0, 18, 37, 74, 148, 296 MG/KG						08/05/86A	08/17/87E	
C00511C 1,2-Dichloroethane..... Ref. No. 5 Prechronic studies in progress. R & M: 0, 500, 1,000, 2,000, 4,000, 8,000 PPM						11/04/85A	08/17/87E	
C00511D 1,2-Dichloroethane..... Ref. No. 6 Prechronic studies completed; chemicals in review for further testing. No mice: R: 0, 500, 1,000, 2,000, 4,000, 8,000 PPM.						11/11/85A	08/17/87E	
C00511E 1,2-Dichloroethane.....						12/02/85A	08/17/87E	

PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY AND CARCINOGENESIS STUDIES—Continued

Exp. No./Chemical	Single dose study		14-Day study		90-Day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
Ref. No. 6. Prechronic studies completed; chemicals in review for further testing. No mice. FI: 0, 500, 1,000, 2,000, 4,000, 8,000 PPM.								
C04875 Dichloromethoxyretate	06/00/68A	08/00/68A	09/00/68A	02/00/69A	06/00/69A	06/00/71A		
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C00486 Dicofol	09/00/70A		11/00/70A		12/00/70A	09/00/71A	09/00/71A	10/00/73A
TR-090 P Under the conditions of this bioassay, technical-grade Dicofol was carcinogenic in male B6C3F1 mice, causing hepatocellular carcinomas. No evidence for carcinogenicity was obtained for this compound in Osborne-Mendel rats of either sex or in female B6C3F1 mice.								
C02868 Di(P-ethylphenyl)Dichloro							06/15/73A	07/15/75A
TR-156 P It is concluded that under the conditions of this bioassay, P,P-Ethyl-DDD was not carcinogenic for male or female F344 rats or male B6C3F1 mice. However, the occurrence of hepatocellular carcinomas and adenomas in female mice was suggestive of a carcinogenic effect.								
C03816 N,N-Diethylthiourea	07/00/72A		09/00/72A		10/00/72A	05/00/73A	07/00/73A	11/00/75A
TR-149 P Under the conditions of this bioassay, N,N-Diethylthiourea was carcinogenic to Fischer 344 rats, causing follicular-cell carcinomas of the thyroid in males and follicular-cell neoplasms of the thyroid in female. There was no evidence for the carcinogenicity of the compound in B6C3F1 mice.								
C02255 2,4-dimethoxyaniline Hyd	01/00/73A		03/00/73A		04/00/73A	09/00/73A	01/00/74A	01/00/76A
TR-171 P Under the conditions of this bioassay there was no convincing evidence for the carcinogenicity of 2,4-Dimethoxyaniline HCl in Fischer 344 rats or B6C3F1 mice. Liver— hepatocellular carcinoma and adenoma-B6C3F1 mouse male.								
C02175 3,3-Dimethoxybenzidine-4	05/00/72A		07/00/72A		08/00/72A	01/00/73A	05/00/73A	06/00/75A
TR-128 P Under the conditions of this bioassay, administration of 3,3-Dimethoxybenzidine-4,4-Diisocyanate was carcinogenic to Fischer 344 rats, causing neoplasms of the skin (excluding skin of the ear) in males, endometrial stromal polyps in females, and leukemia and malignant lymphoma in both sexes. The compound was also associated with the development of a combination of squamous-cell carcinomas and sebaceous adenocarcinomas of the Zymbal's gland and skin of the ear in rats of both sexes. There was no evidence for the carcinogenicity of the compound in B6C3F1 mice.								
C02175 3,3-Dimethoxybenzidine-4,4-Diisocyanate								
Boxed with C03805 from Litton Lab.								
C01821 N,N-dimethyl-P-Nitrosoani	02/00/71A		04/00/71A		05/00/71A	02/00/72A	02/00/72A	02/00/75A
TR-176								
C01865 2,4-Dinitrotoluene	02/00/71A		04/00/71A		05/00/71A	02/00/72A	02/00/72A	02/00/75A
TR-054 P Under the conditions of this bioassay dietary administration of 2,4-Dinitrotoluene to Fischer 344 rats induced benign tumors i.e., fibroma of the skin and subcutaneous tissue in males and fibroadenoma of the mammary gland in females). No evidence was provided for the carcinogenicity of the compound in B6C3F1 mice of either sex.								
C03689A 1,4-Dioxane							12/15/71A	09/15/75A
Ref. No. 21 Positive controls and studies with inadequate data. Data inconclusive—No technical report issued. Additional study performed by water (C03689B).								
C03689B 1,4-Dioxane							04/00/72A	09/00/75A
TR-080 P Under the conditions of this bioassay, 1,4-Dioxane induced hepatocellular adenomas in female Osborne-Mendel rats. 1,4-Dioxane was carcinogenic in both sexes of rats, producing squamous-cell carcinomas of the nasal turbinates, and in both sexes of B6C3F1 mice, producing hepatocellular carcinomas.								
C03095 Dioxathion	06/00/70A		08/00/70A		09/00/70A	05/00/71A	06/00/71A	07/00/73A
TR-125 P Under the conditions of this bioassay, dietary administration of Dioxathion was not carcinogenic in Osborne-Mendel rats or B6C3F1 mice.								
C03350 2,2-Dioxide-1,2-Oxathiolone								
Old Litton Contract 69/1052, 69/1053 from Litton Lab.								
C03009 2,5-Dithioburea	12/00/71A		02/00/72A		03/00/72A	08/00/72A	12/00/72A	01/00/75A
TR-121 P Under the conditions of this bioassay, the evidence suggested, but was insufficient to establish the carcinogenicity of 2,5-Dithioburea for female B6C3F1 mice. The compound was not carcinogenic to male B6C3F1 mice or to male or female Fischer 344 rats.								
C06439 Dithioamide								
Old Litton contract 69/1079, 69/1071 from Litton Lab.								
C02073 Dulcin	10/00/70A		12/00/70A		01/00/71A	06/00/71A	10/00/71A	08/00/73A
TR-079 Publication withdrawn								
C01605 Emetine Hydrochloride	06/00/71A		08/00/71A		09/00/71A	05/00/72A	06/00/72A	10/00/74A
TT-043P It is concluded that the results of this study do not allow evaluation of the possible carcinogenicity of Emetine.								
C00566 Endosulfan	01/00/71A		03/00/71A		04/00/71A	12/00/71A	01/00/72A	02/00/74A
TR-062 In both species high mortality was observed in the male groups and no conclusions concerning the carcinogenicity of Endosulfan can be drawn from this part of the bioassay. However, survival among females of both species was sufficient for meaningful statistical evaluation of the incidence of late-developing tumors. It is concluded that under the conditions of this bioassay, technical-grade Endosulfan was not carcinogenic in female Osborne-Mendel rats or in female B6C3F1 mice.								
C01694 Ethionamide	04/00/72A		06/00/72A		07/00/72A	12/00/72A	04/00/73A	04/00/75A
TR-046 P It is concluded that under conditions of this bioassay, Ethionamide was not carcinogenic in either Fischer 344 rats or B6C3F1 mice.								
C00602 Ethyl Carbamate								
1 Box wet tissue from Alton-Ochner Lab.								
C06417 Ethylene Carbonate								
Old Litton contract 69/1080, 69/1061 from Litton Lab.								
C03974 Ethylenediamine Tetraacet	07/00/72A		09/00/72A		10/00/72A	04/00/73A	07/00/73A	08/00/75A
TR-011 P There was no evidence of carcinogenicity of EDTA at the concentrations administered, and no tumors or lesions of the kidney or other organs were related to the treatment. Survival of all groups of animals of both species was good, thus, the lack of appearance of treatment-related tumors could not be attributed to early mortality. It should be noted that the confidence intervals for all tumor sites include a positive value, this indicates that the possibility of tumorigenicity is not theoretically precluded. However, under the conditions of this study, using concentrations of 31500 PPM and 7,500 PPM in feed, NA3EDTA.3H2O was not demonstrated to be carcinogenic in rats or mice.								
C03372 Ethylene Thiourea	07/26/79A	08/00/79A	10/04/79A	10/00/79A	02/21/80A	01/00/82A	10/18/82A	02/08/85A
Ref. No. 8 Two year studies; histopathology in progress.								
C02857 Ethyl Tellurac							07/15/73A	11/15/75A
TR-16152 P It is concluded that under the conditions of this bioassay, Ethyl Tellurac was not carcinogenic for F344 rats or B6C3F1 mice of either sex. The incidence of mesotheliomas in dosed male rats and the incidence of adenomas of the lacrimal (Harderian) gland of the eye in dosed mice of either sex provided evidence which was suggestive but under the conditions of the bioassay insufficient to establish the carcinogenicity of Ethyl Tellurac in these animals.								
C00306/A00975 Fez-Benzo (A) Pyrene Gelatin/Saline								
Materials present in Archives from IITRI Lab.								
C00293/A00964 FEZ03(14-30U)-Benzo Galatin/Saline								
Materials present in Archives from IITRI Lab.								
C03010 Formulated Fenaminosulf	12/00/71A		02/00/72A		03/00/72A	08/00/72A	12/00/72A	03/00/75A
TR-10 P Under the conditions of this bioassay, dietary administration of formulated Fenaminosulf was not carcinogenic in either Fischer 344 rats or B6C3F1 mice.								
C04819 Guanazole	05/00/68A		07/00/68A		08/00/68A	04/00/69A	05/00/69A	08/00/71A

PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY AND CARCINOGENESIS STUDIES—Continued

Exp. No./Chemical	Single dose study		14-Day study		90-Day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C02142 Hexanamide	11/00/70A		01/00/71A		02/00/71A	08/00/71A	11/00/71A	03/00/74A
Ref. No. 21 Positive controls and studies with inadequate data. Data inconclusive—No technical report issued.								
C01854 Hydrazobenzene	04/00/71A		06/00/71A		07/00/71A	04/00/72A	04/00/72A	03/00/75A
TR-092 P Under the conditions of this bioassay, Hydrazobenzene was carcinogenic to Fischer 344 rats of both sexes, causing increased incidences of hepatocellular carcinoma and Zymbal's gland squamous-cell neoplasms in male rats, neoplastic nodules of the liver in female rats, and mammary adenocarcinomas in female rats. Hydrazobenzene was also carcinogenic to female B6C3F1 mice, causing an increased incidence of hepatocellular carcinomas. The compound was not carcinogenic to male B6C3F1 mice.								
C04831 Hydroxyurea	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01547 IPD (3,3'-IMINOBIS-1-PROP	05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	12/00/74A
TR-018 P Conclusions from this study are limited by early deaths and toxicity, the appearance of tumors in the peritoneum near the injection sites in both Sprague-Dawley rats and B6C3F1 mice indicate carcinogenic potential of IPD.								
C01638 Isophosphamide	02/00/71A		04/00/71A		05/00/71A	12/00/71A	02/00/72A	10/00/73A
TR-032 P Under the conditions of this bioassay, Isophosphamide was not carcinogenic in male Sprague-Dawley rats or in male B6C3F1 mice. The incidence of leiomyosarcomas of the uterus indicated that Isophosphamide was carcinogenic in female Sprague-Dawley rats, and the incidence of fibroadenoma of the mammary gland in female rats was associated with treatment with Isophosphamide. Isophosphamide was carcinogenic in female B6C3F1 mice, producing malignant lymphomas of the hematopoietic system.								
C02891 Lead Dimethyldithiocarbamate							11/15/73A	11/15/75A
TR-151 P It is concluded that under the conditions of this bioassay, lead Dimethyldithiocarbamate was not carcinogenic for F344 rats or B6C3F1 mice of either sex.								
C03861 Lithocholic Acid	06/00/72A		08/00/72A		09/00/72A	05/00/73A	06/00/73A	10/00/75A
TR-175 P Under the conditions of this bioassay, Lithocholic Acid was not carcinogenic when administered by gavage to Fischer 344 rats or B6C3F1 mice.								
C04740 Lomustine	02/00/69A		04/00/69A		05/00/69A	11/00/69A	02/00/70A	03/00/72A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C04866 6-mercaptopurine	06/00/68A		08/00/68A		09/00/68A	02/00/69A	06/00/69A	06/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual component.								
C04944 Merphalan	09/00/68A		11/00/68A		12/00/68A	05/00/69A	09/00/69A	09/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual component.								
C04671 Methotrexate	03/00/68A		05/00/68A		06/00/68A	11/00/68A	03/00/69A	03/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C00497 Methoxychlor	07/00/70A		09/00/70A		10/00/70A	10/00/71A	07/00/71A	10/00/73A
TR-035 P Under the conditions of this study, Methoxychlor was not found to be carcinogenic in Osborne-Mendel rats or B6C3F1 mice of either sex.								
C04955 Methyl CCNU	10/00/66A		12/00/66A		01/00/67A	06/00/67A	10/00/67A	10/00/69A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01627 (+)-4,4'-(1-Methyl-1,2-E	05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	01/00/74A
TR-078 P Under the conditions of this bioassay, ICRF-159 was carcinogenic for female Sprague-Dawley rats, producing uterine adenocarcinomas, and was also carcinogenic for female B6C3F1 mice, producing lymphomas.								
C04784 6-Methylmercaptopurine RI	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01923A 2-Methyl-1-Nitroanthraqui	02/00/72A		04/00/72A		05/00/72A	10/00/72A	02/00/73A	03/00/75A
TR-029 P Under the conditions of this bioassay, the results indicate that 2-Methyl-1-Nitroanthraquinone is carcinogenic in male Fischer 344 rats, producing hepatocellular carcinomas. Increased incidences of subcutaneous fibromas in both male and female rats were also associated with administration of the compound. Tumors of the forestomach and bladder in these animals may also have been related to administration of the test chemical.								
C01923B 2-Methyl-1-Nitroanthraqui	02/00/72A		04/00/72A		05/00/72A	10/00/72A	02/00/73A	11/00/74A
TR-00D P Subcutaneous hemangiosarcomas developed in 97% of 172 B6C3F1 mice of both sexes fed either 0.03 or 0.05% 2-Methyl-1-Nitroanthraquinone in the diet. There was no significant relationship to dose or sex in addition, similar vascular tumors occurred in the mesentery of 14 mice. 2-methyl-1-Nitroanthraquinone I Carcinogenic in B6C3F1 mice when given in food. One of 97 control mice had a splenic hemangiosarcoma.								
C02971 Methyl Parathion							07/15/73A	08/15/75A
TR-157 P It is concluded that under the conditions of this bioassay, Methyl Parathion was not carcinogenic for F344 rats or B6C3F1 mice of either sex.								
C00544 Mexcarbarte	01/00/71A		03/00/71A		04/00/71A	12/00/71A	01/00/72A	03/00/74A
TR-147 P Under the conditions of this bioassay, sufficient evidence was not obtained for the carcinogenicity of Mexcarbarte for Osborne-Mendel rats or B6C3F1 mice.								
C06428A Mirex							06/03/77A	07/05/79A
C06428B Mirex								01/22/80A
Only wish to dispose of Mirex materials from old Litton contract—69/1096, 69/1097.								
C04706 Mitomycin C	05/00/68A		07/00/68A		08/00/68A	01/00/69A	05/00/69A	05/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
C01592 Myleran	07/00/71A		09/00/71A		10/00/71A	06/00/72A	07/00/72A	11/00/74A
Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate-No report. DEG recomm no report 12/16/76 due to (1) inadeg. Survival in treated groups. (2) No statistically significant occurrence of tumors.								
C03021 1,5-Naphthalenediamine	06/00/72A		08/00/72A		09/00/72A	02/00/73A	06/00/73A	06/00/75A

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Exp. No./Chemical	Single dose study		14-Day study		90-Day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
TR-143 P Under the conditions of this bioassay, 1,5-Naphthalenediamine was carcinogenic in female Fischer 344 rats, causing clitoral and uterine neoplasms, 1,5-Naphthalenediamine was also carcinogenic for B6C3F1 mice, producing thyroid neoplasms in males and neoplasms of the thyroid, liver, and lung in females. Insufficient evidence was provided for the carcinogenicity of the compound in male Fischer 344 rats.								
C03281 N-(1-Naphthyl)Ethylene-dia	07/00/72A		09/00/72A		10/00/72A	03/00/73A	07/00/73A	08/00/75A
TR-168 P Under the conditions of this bioassay, dietary administration of N-(1-Naphthyl)Oethylenediamine Dihydrochloride was not carcinogenic in Fischer 344 rats or B6C3F1 mice								
C00862 Nickel (II) Oxide			01/21/86A	04/28/86A	07/01/86A	05/01/87A	01/00/88E	
Ref. No. 5 Prechronic studies in progress.								
C05845 Nicotinamide								
Materials present in Archives C# had been listed incorrectly as C05485.								
C03792 Nithiazide	10/00/72A		12/00/72A		01/00/73A	11/00/73A	10/00/73A	03/00/76A
TR-146 P Under the conditions of this bioassay, Nithiazide was carcinogenic in male and probably female B6C3F1 mice, causing a combination of hepatocellular carcinomas and hepatocellular adenomas. Nithiazide was also carcinogenic in female Fischer 344 rats, causing an increased incidence of a combination of skin and mammary neoplasms. The compound was not carcinogenic in male Fischer 344 rats.								
C01967 5-Nitroacenaphthene	11/00/76A		01/00/77A		02/00/77A	07/00/77A	08/00/72A	02/00/75A
TR-118 P Under the conditions of this bioassay, 5-Nitroacenaphthene was carcinogenic to Fischer 344 rats, causing increased incidences of malignant tumors of the ear canal and lung in both sexes, and of the clitoral gland and mammary gland in females. 5-Nitroacenaphthene was also carcinogenic to female but not male B6C3F1 mice, causing carcinomas of the liver and ovarian tumors.								
C01978 3-Nitro-P-Acetophenetide	09/00/71A		11/00/71A		12/00/71A	05/00/72A	09/00/72A	10/00/74A
TR-133 P Under the conditions of this bioassay, dietary administration of 3-Nitro-P-Acetophenetide was not carcinogenic in Fischer 344 rats of either sex or in female B6C3F1 mice. The compound, however was considered Carcinogenic in male B6C3F1 mice based on a significant increase in the combined incidence of hepatocellular carcinomas and hepatocellular adenomas in these animals.								
C01934 5-Nitro-O-Anisidine	08/00/71A		10/00/71A		11/00/71A	04/00/72A	08/00/72A	03/00/75A
TR-127 P Under the conditions of this bioassay, dietary administration of 5-Nitro-O-Anisidine was carcinogenic in Fischer 344 rats, causing tumors of the integumentary system in males and females and of the clitoral gland in females. The compound was also carcinogenic to female B6C3F1 mice, causing hepatocellular carcinomas.								
C01945 4-Nitroanthranilic Acid	02/00/71A		04/00/71A		05/00/71A	02/00/72A	02/00/72A	10/00/74A
TR-109 P Under the conditions of this bioassay evidence was not provided for the carcinogenicity of 4-Nitroanthranilic Acid in Fischer 344 rats or B6C3F1 mice.								
C01912 5(6)-Nitrobenzimidazole	03/00/71A		05/00/71A		06/00/71A	04/00/72A	03/00/72A	03/00/75A
TR-117 P Under the conditions of this bioassay, dietary administration of 6-Nitrobenzimidazole was not carcinogenic to Fischer 344 rats. However, the compound was carcinogenic to B6C3F1 mice, causing hepatocellular carcinomas in both sexes.								
C00420A Nitrofen	09/00/71A		11/00/71A		12/00/71A	08/00/72A	09/00/72A	12/00/74A
TR-184 P Under the condition of this bioassay, dietary administration of Nitrofen was carcinogenic to B6C3F1 mice, causing hepatocellular carcinomas in both sexes. There was no evidence for carcinogenicity in Fischer 344 rats.								
C00420B Nitrofen	12/00/70A		02/00/71A		03/00/71A	12/00/71A	12/00/71A	01/00/74A
TR-026 P The results of this study indicate that Nitrofen is a liver carcinogen, causing hepatocellular carcinomas in B6C3F1 mice of both sexes and hemangiosarcoma of the liver in male mice. In addition, the compound is carcinogenic to female Osborne-Mendel rats, causing an increased incidence of pancreatic carcinomas. Survival of the high dose male rats was not adequate for meaningful statistical analysis of tumor incidence.								
C01956 1-Nitronaphthalene	03/00/71A		05/00/71A		06/00/71A	03/00/72A	03/00/72A	02/00/75A
TR-064 P Under the conditions of this bioassay 1-Nitronaphthalene was not demonstrated to be carcinogenic in Fischer 344 rats or B6C3F1 mice.								
C02880 N-Nitrosodiphenylamine							02/15/74A	09/15/76A
TR-164 P It is concluded that under the conditions of this bioassay, N-Nitrosodiphenylamine was carcinogenic for both sexes of F344 rats, inducing transitional-cell carcinomas of the urinary bladder, but was not carcinogenic for B6C3F1 mice of either sex.								
C01843 5-Nitro-O-Toluidine	04/00/71A		06/00/71A		07/00/71A	05/00/72A	04/00/72A	07/00/74A
TR-107 P Under the conditions of this bioassay 5-Nitro-O-Toluidine was carcinogenic in B6C3F1 mice, causing hepatocellular carcinomas in both sexes, and increase in the combined incidence of hemangiomas and hemangiosarcomas in male mice, and an increased incidence of hemangiosarcomas in female mice. The compound was not carcinogenic in Fischer 344 rats.								
C03678A Octachlorodibenzodioxin							08/00/72A	10/00/75A
Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate—No technical report issued. Additional studies under consideration (C03678).								
C03678 Octachlorodibenzodioxin								
Ref. No. 18 Chemicals deferred.								
C00419A Pentachloronitrobenzene	09/00/70A		11/00/70A		12/00/70A	08/00/72A	09/00/71A	10/00/73A
TR-061 P It is concluded that under the conditions of this bioassay PCNB was not carcinogenic in either Osborne-Mendel rats or B6C3F1 mice.								
C00419B Pentachloronitrobenzene	NR		NR		05/06/80A	11/00/80A	06/09/81A	06/10/83A
TR-325 P There was no evidence of carcinogenicity for male or female B6C3F1 mice. Only wish to dispose of older study.								
C01672 Phenazopyridine Hydrochloride	10/00/71A		12/00/71A		01/00/72A	09/00/72A	10/00/72A	01/00/75A
TR-099 P Under the conditions of this bioassay, Phenazopyridine Hydrochloride was carcinogenic in Fischer 344 rats, inducing adenocarcinomas of the colon in both males and females. Although administration of Phenazopyridine Hydrochloride was not carcinogenic in male B6C3F1 mice, the chemical was carcinogenic in females, including hepatocellular adenomas and carcinomas.								
C01558 Phenestarin	06/00/71A		08/00/71A		09/00/71A	04/00/72A	06/00/72A	02/00/76A
TR-060 P Under the conditions of this bioassay, Phenestarin was carcinogenic in female Sprague-Dawley rats, producing adenocarcinomas of the mammary gland, and in both sexes of B6C3F1 mice, producing alveolar/bronchiolar carcinomas, hematopoietic tumors, and myocardial sarcomas.								
C01741 Phenformin Hydrochloride	02/00/72A		04/00/72A		05/00/72A	10/00/72A	02/00/73A	02/00/75A
TR-007 P No evidence for carcinogenicity under the conditions of this bioassay of Phenformin. Stability of test material in feed not determined, however, test performed in male mice may be inconclusive. Confidence intervals for all tumor sites in rats and mice which were subjected to statistical analysis include a positive value indicating the theoretical possibility of tumor induction by Phenformin which could not be detected under the conditions of this test.								
C01661 Phenoxybenzamine Hydrochloride	07/00/71A		09/00/71A		10/00/71A	04/00/72A	07/00/72A	07/00/76A
TR-072 P Under the conditions of this bioassay, Phenoxybenzamine Hydrochloride was carcinogenic for the peritoneum of both sexes of Sprague-Dawley rats and B6C3F1 mice.								
C03930 P-Phenylenediamine Dihydrochloride	02/00/72A		04/00/72A		05/00/72A	01/00/74A	02/00/73A	05/00/76A
TR-174 P Under the conditions of this bioassay, there was no convincing evidence that dietary administration of P-Phenylenediamine Dihydrochloride was carcinogenic in Fischer 344 rats or B6C3F1 mice.								
C02233 N-Phenyl-P-Phenylenediamine	11/00/71A		01/00/72A		02/00/72A	08/00/72A	11/00/72A	12/00/74A
TR-082 P It is concluded that under the conditions of this bioassay, N-Phenyl-P-Phenylenediamine was not carcinogenic for Fischer 344 rats or for B6C3F1 mice.								
C03612 Phthalimide							11/15/73A	11/15/75
TR-161 P It is concluded that under the conditions of this bioassay, Phthalimide was not carcinogenic for F344 rats or B6C3F1 mice of either sex.								
C03601 Phthalic Anhydride							10/15/73A	10/15/75
TR-159 P It is concluded that under the conditions of this bioassay, Phthalic Anhydride was not carcinogenic for F344 rats or B6C3F1 mice of either sex.								
C02813 Piperonyl Butoxide							07/15/73A	08/15/75

PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY AND CARCINOGENESIS STUDIES—Continued

Exp. No./Chemical	Single dose study		14-Day study		90-Day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
TR-120 P	It is concluded that under the conditions of this bioassay, Piperonyl Butoxide was not carcinogenic for Fisher 344 rats or B6C3F1 mice.							
C02824 Piperonyl Sulfoxide							06/15/73A	10/15/75
TR-124 P	It is concluded that under the conditions of this bioassay, technical-grade Piperonyl Sulfoxide was not carcinogenic for male or female Fisher 344 rats or for female B6C31 mice, but was carcinogenic for male B6C3F1 mice, producing an increased incidence of hepatocellular carcinomas.							
C04897 Prednisone	05/00/68A	07/00/68A	08/00/68A	01/00/69A	05/00/69A	05/00/71A	05/00/71A	
TR-00A P	Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens, while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.							
C01810A Procarbazine Hydrochlorid.	06/00/68A	08/00/68A	09/00/68A	07/00/69A	06/00/69A	11/00/71A	11/00/71A	
TR-00A P	Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens, while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.							
C01801B Procarbazine Hydrochlorid.	05/00/71A	07/00/71A	08/00/71A	01/00/72A	05/00/72A	01/00/74A	01/00/74A	
TR-019 P	It is concluded that under the conditions of this bioassay, Procarbazine was carcinogenic for both Sprague-Dawley rats and B6C3F1 mice, producing several types of tumors in both sexes of these two species.							
C01683 Pyrimethamine	01/00/72A	03/00/72A	04/00/72A	09/00/72A	01/00/73A	01/00/75A	01/00/75A	
TR-077 P	It is concluded that under the conditions of this bioassay, Pyrimethamine was not carcinogenic for male or female Fischer 344 rats or for female B6C3F1 mice. The carcinogenic potential of Pyrimethamine for male B6C3F1 mice cannot be assessed by this bioassay, because of the markedly reduced life span.							
C03101 Rosorcin Blue.	1 Box wet tissue from Dow Lab.							
C02506 Saccharin I.	C# had been listed incorrectly as C02056 from Litton Lab.							
C03098A Scopolamine Hydrobromide.								
C03098B Scopolamine Hydrobromide.	Only wish to dispose of older 'scopos' study by Dow Lab. One box of wet tissue.							
C06462 Sodium Azide.	Only wish to dispose of Sodium Azide materials from old Litton contract 69/1058, 69/1059.							
C02835 Sodium Diethylthiocarbamate							09/15/73A	06/15/76A
TR-172 P	It is concluded that under the conditions of this bioassay, Sodium Diethylthiocarbamate was not carcinogenic for F344 rats or B6C3F1 mice of either sex.							
C02084 Sodium Nitrite	11/00/70A	01/00/71A	02/00/71A	08/00/71A	11/00/71A	03/00/73A	03/00/73A	
TR-167								
C06473 Sodium Sulfhydrate.	Old Litton contract 69/1066, 69/1067 from Litton Lab.							
C03167 Streptozotocin	12/00/68A	02/00/69A	03/00/69A	08/00/69A	12/00/69A	12/00/71A	12/00/71A	
TR-00A P	Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens, while others showed little or no evidence of carcinogenicity the carcinogenicity of the drug combinations was generally less than that of the individual compounds.							
C00453 Sulfallate	06/00/70A	08/00/70A	09/00/70A	06/00/71A	06/00/71A	07/00/73A	07/00/73A	
TR-115 P	Under the conditions of this bioassay dietary administration of Sulfallate was carcinogenic to Osborne-Mendel rats and to B6C3F1 mice, inducing mammary gland tumors in females of both species, tumors of the forestomach in male rats, and lung tumors in male mice.							
C01718 4,4'-Sulfonyldianiline	05/00/71A	07/00/71A	08/00/71A	01/00/72A	05/00/72A	05/00/74A	05/00/74A	
TR-020 P	It is concluded that under the conditions of this bioassay, Dapsone (4,4'-Sulfonyldianiline) was not carcinogenic for female Fischer 344 rats or B6C3F1 mice of either sex. Dapsone was carcinogenic (sarcomagenic) for male Fischer 344 rats causing mesenchymal tumors in the spleen and peritoneum.							
C00475 Tetrachlorodiphenylethane	08/00/70A	10/00/70A	11/00/70A	08/00/71A	08/00/71A	09/00/73A	09/00/73A	
TR-131 P	Under the conditions of this bioassay, there was no evidence for the carcinogenicity of TDE in female Osborne-Mendel rats or B6C3F1 mice of either sex.							
C03554A 1,1,2,2-Tetrachloroethane	02/00/71A	04/00/71A	05/00/71A	12/00/71A	02/00/72A	03/00/74A	03/00/74A	
TR-027 P	Under the conditions of this study, there was inconclusive evidence for carcinogenicity of 1,1,2,2-Tetrachloroethane in rats. There was positive evidence in mice of both sexes.							
C03554B 1,1,2,2-Tetrachloroethane.	Ref. No. 3 Chemicals approved for toxicology study.							
C03032 2,3,5,6-Tetrachloro-4-NIT.	05/00/72A	07/00/72A	08/00/72A	01/00/74A	05/00/73A	05/00/76A	05/00/76A	
TR-114 P	Under the conditions of this bioassay, dietary administration of 2,3,5,6-Tetrachloro-4-Nitroanisole was not carcinogenic to male or female Fischer 344 rats or B6C3F1 mice or either sex.							
C02959 Tetraethylthiuram Disulfide							11/15/73A	06/15/76A
TR-166 P	It is concluded that under the conditions of this bioassay, Tetraethylthiuram Disulfide was not carcinogenic for F344 rats or B6C3F1 mice of either sex.							
C01707 4,4'-Thiodianiline	09/00/71A	11/00/71A	12/00/71A	05/00/72A	09/00/72A	09/00/74A	09/00/74A	
TR-047 P	Under the conditions of this bioassay, 4,4'-Thiodianiline was carcinogenic for Fischer 344 rats, inducing tumors in the liver, thyroid, colon, and ear canal of male rats, and the thyroid, uterus, and ear canal of female rats. 4,4'-Thiodianiline was carcinogenic for B6C3F1 mice, inducing tumors in the liver and thyroid of both males and females.							
C01581 Beta-Thioguanidine Deozyr	07/00/73A	09/00/73A	10/00/73A	03/00/74A	07/00/73A	04/00/75A	04/00/75A	
TR-057 P	Under the conditions of this bioassay, the low survival of the dosed and vehicle-control groups of mice, as well as the possible procedural problem that may have affected the incidences of tumors in these groups, does not allow a determination to be made of the carcinogenic potential of B-TGDR in this species. B-TGDR in the vehicle of 0.05% Polysorbate 80 was, however, carcinogenic in rats, producing carcinomas of the ear canal in the females and possibly also in the males.							
C06451 Thiosemicarbazide.	Old Litton contract 69/1068, 69/1069 from Litton Lab.							
C08708 Thyroid Extract.	Old Litton contract 69/1066, 69/1067, boxed with C06473 from Litton Lab.							
C01503 Tobacco Smoke.	Materials present in Archives from Hazleton Lab.							
C03327 Tolazamide	10/00/72A	12/00/72A	01/00/73A	07/00/73A	10/00/73A	11/00/75A	11/00/75A	
TR-051 P	It is concluded that under the conditions of this bioassay, Tolazamide was not carcinogenic for Fischer 344 rats or B6C3F1 mice.							
C01763 Tolbutamide	03/00/72A	05/00/72A	06/00/72A	01/00/73A	03/00/73A	05/00/75A	05/00/75A	
TR-031 P	It is concluded that under the conditions of this bioassay, Tolbutamide was not carcinogenic for either Fischer 344 rats or B6C3F1 mice.							
C01832 2,5-Toluenediamine Sulfat	03/00/71A	05/00/71A	06/00/71A	03/00/72A	02/00/72A	02/00/75A	02/00/75A	
TR-126 P	Under the conditions of this bioassay, sufficient evidence was not obtained to demonstrate the carcinogenicity of 2,5-Toluenediamine Sulfate in either Fischer 344 rats or B6C3F1 mice.							
C02335 0-Toluidine Hydrochloride							10/15/73A	08/15/76A
TR-153 P	Under the conditions of this bioassay, 0-Toluidine Hydrochloride was carcinogenic in both male and female F344 rats and B6C3F1 mice, producing a significant increased incidence of one or more types of neoplasms.							
C02153 P-Tolylurea	12/00/70A	02/00/71A	03/00/71A	08/00/71A	12/00/71A	03/00/74A	03/00/74A	

PROPOSED DISPOSAL OF WET TISSUES FOR TOXICOLOGY AND CARCINOGENESIS STUDIES—Continued

Exp. No./Chemical	Single dose study		14-Day study		90-Day study		2-Year study	
	Start	End	Start	End	Start	End	Start	End
Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate—No technical report issued.								
CO2904 2,4,6-Trichlorophenol							06/15/73A	07/15/75A
TR-155 P It is concluded that under the conditions of this bioassay, 2,4,6-Trichlorophenol was carcinogenic in male F344 rats, inducing lymphomas or leukemias. The test chemical was also carcinogenic in both sexes of B6C3F1 mice, including hepatocellular carcinomas or adenomas.								
CO0442 Trifluralin	05/00/70A		07/00/70A		08/00/70A	02/00/71A	05/00/71A	06/00/73A
TR-034 Evaluation of the results of this bioassay indicates that technical-grade Trifluralin is a carcinogen in female B6C3F1 mice, being associated in these animals with an elevated incidence of hepatocellular carcinomas, alveolar/bronchiolar adenomas and squamous-cell carcinomas of the forestomach. Sufficient evidence was not provided for the carcinogenicity or tumorigenicity of Trifluralin in male B6C3F1 mice or in Osborne-Mendel rats of either sex.								
CO2299 2,4,5-Trimethylaniline							02/15/74A	02/15/76A
TR-160 P It is concluded that under the conditions of this bioassay, 2,4,5-Trimethylaniline was carcinogenic for male and female F344 rats and female B6C3F1 mice, inducing hepatocellular carcinomas or neoplastic nodules in the rats of each sex, alveolar/bronchiolar carcinomas in the female rats, and hepatocellular carcinomas in the female mice.								
CO1649 Tris(Azidinyloxy)phosphine	05/00/71A		07/00/71A		08/00/71A	01/00/72A	05/00/72A	03/00/75A
TR-058 P Under the conditions of this bioassay, Thio-Tepa was carcinogenic in both Sprague-Dawley rats and B6C3F1 mice. In the rats, the chemical induced squamous-cell carcinoma of the skin or ear canal in both males and females, and hematopoietic neoplasms in the males. In the mice, it induced lymphoma or lymphocytic leukemia in both sexes and squamous-cell carcinoma in the skin and associated glands of males.								
CO1729 L-Tryptophan	02/00/72A		04/00/72A		05/00/72A	10/00/72A	02/00/73A	02/00/75A
TR-071 P It is concluded that under the conditions of this bioassay, L-Tryptophan was not carcinogenic for Fischer 344 rats or B6C3F1 mice.								
CO4820 Uracil Mustard	04/00/68A		06/00/68A		07/00/68A	12/00/68A	04/00/69A	04/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual component.								
CO2119 Urea	10/00/70A		12/00/70A		01/00/71A	06/00/71A	10/00/71A	02/00/73A
Ref. No. 21 Positive controls and studies with inadequate data. Data inadequate—No technical report issued.								
CO4842 Vinblastine	05/00/68A		07/00/68A		08/00/68A	01/00/69A	05/00/69A	05/00/71A
TR-00A P Various compounds and combinations thereof, of promise in the treatment of neoplastic diseases, were tested for possible carcinogenicity in Swiss mice and Sprague-Dawley rats. Some of the compounds were fairly active carcinogens while others showed little or no evidence of carcinogenicity. The carcinogenicity of the drug combinations was generally less than that of the individual components.								
CO8537 Zinc Acetate. 9 boxes wet tissue from Liiton Lab.								

[FR Doc. 88-1204 Filed 1-21-88; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

The Shoshone and Arapahoe Tribes;
Wind River Indian Reservation, Fort
Washakie, WY; Transfer of Federally
Owned Lands

January 5, 1988.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On December 3, 1986, pursuant to authority contained in the Federal Property and Administrative Services Act of 1949 as amended by Pub. L. 93-599 dated January 2, 1975 (88 Stat. 1954), the below-described property was transferred by the General Services Administration to the Secretary of the Interior, without reimbursement, to be held in trust by the United States for the benefit and use of the Shoshone and Arapahoe Tribes of the Wind River Indian Reservation, Fort Washakie, Wyoming:

Township 8 North, Range 1 West, Wind River Meridian, Wyoming

Section 24, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ containing 120.00 acres.

These lands are to be treated as and receive the same benefits and protection as other trust lands held for the benefit and use of the Shoshone and Arapahoe Tribes. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 88-1259 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-02-M

Fish and Wildlife Service

[DES 88-3]

Availability of Draft Environmental
Impact Statement; Arctic National
Wildlife Refuge, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a draft environmental impact statement for the proposed Comprehensive Conservation Plan, Wilderness Review, and Wild River Plan for Arctic National Wildlife Refuge, Alaska.

SUMMARY: The U.S. Fish and Wildlife Service has prepared, for public review, a Draft Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plan (Plan) for the Arctic National Wildlife Refuge, Alaska, pursuant to section 304(g)(1), 605, 1008, and 1317 of

the Alaska National Interest Lands Conservation Act of 1980; section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Environmental Policy Act of 1969. The Plan describes seven alternatives for managing the refuge and the environmental consequences of implementing each alternative. The document also reviews the suitability of all the federal lands in the refuge for possible wilderness designation and inclusion in the National Wilderness Preservation System.

DATES: During the public-review period, formal public hearings on the Plan will be held in Anchorage and Fairbanks. Also, public meetings will be held in Kaktovik, Arctic Village, and Fort Yukon. The Service will provide public notices and make announcements through the news media in Alaska prior to any hearings or meetings. In addition, the Service will inform residents of these communities adjacent to the refuge and other interested parties when arrangements for the public meetings have been completed.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3399.

SUPPLEMENTAL INFORMATION: A summary of the Plan has been prepared and will be sent to all persons and

organizations who participated in any part of the planning process, such as scoping meetings, workshops, or in other types of communication with the planning team. Copies of the complete Plan will be sent to federal and state agencies, regional and village Native corporations, local governments, and other organizations and individuals who have already requested copies. A limited number of copies of both documents are available upon request from Mr. Knauer.

Written and oral testimony will be accepted at the formal public hearing and will be transcribed for the official record. Written and oral comments also will be accepted at the public meetings. To be considered in the preparation of the final plan all comments and testimony, both oral and written, should be received by no later than April 21, 1988.

Copies of the Plan are available for public review at the office of the Regional Director, at the above address; at the Arctic National Wildlife Refuge Office, Room 226, Federal Bldg. & Courthouse, 101 12th Ave., Fairbanks, Alaska 99701, and at the following locations:

- U.S. Fish and Wildlife Service, Division of Refuge Management, U.S. Department of the Interior Bldg., 18th & C Streets, NW, Washington, DC 20240
- U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NE. Multnomah Street Suite 1692, Portland, OR 97232
- U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue SW., Room 1306, Albuquerque, NM 87103
- U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111
- U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Bldg., 75 Spring Street, Atlanta, GA 30303
- U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 700, Newton Corner, MA 02158
- U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225

Date: January 15, 1988.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 88-1239 Filed 1-63, 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Intention To Prepare a Planning Analysis/Environmental Assessment for the State of Florida

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given that the Jackson District of the Eastern States Office is starting the preparation of a Planning Analysis-Environmental Assessment (PA/EA) for the Federal Mineral Ownership (FMO) and Public Domain (PD) lands under BLM jurisdiction in Florida. The document will consist of an environmental assessment, plus any other data necessary to analyze the environmental consequences of alternative management prescriptions on resources affected by or affecting actions approved in Florida by BLM's Jackson District. A resource as used in this context means a natural or human resource including physical resources such as air, soil, and water and human resources such as socio-economic resources. Any hazards associated with a resource will also be considered. While not a resource, the presence of hazardous waste on PD lands will be considered in the Analysis.

The Analysis will propose several alternate management practices including a preferred alternative. It will be used as a basis for selection of a Plan. The document will be developed in accordance with the mandates of the Federal Land Policy and Management Act of 1976 (FLPMA), the guidance provided in 43 CFR Part 1600, the BLM Planning Manual and the State Director Guidance for Planning in the Eastern States Office (1987).

Scope of the Analysis

In the State of Florida, the Bureau is responsible for the management of PD lands and FMO. PD lands are lands and interests in lands which never left the ownership of the United States, lands which were obtained by the United States in an exchange for other PD lands or which were originally PD lands that have reverted to the United States through operation of the public land laws. FMO includes all mineral interests held by the Federal Government except certain mineral interests excluded by legislative mandate for environmental or national security reasons. In Florida and FMO includes oil, gas, and phosphate. These minerals are located primarily under Forest Service, Department of Defense, State and private lands. The PD lands

and FMO are scattered throughout the State.

Since consultation and/or consent is required prior to leasing FMO under surface managed by other Federal agencies, planning decisions are made by those agencies. Hence the Florida PA/FA will not formulate planning decisions on lands managed by other Federal agencies. The management authority of the State or private land owners on their respective lands is fully recognized by BLM. Planning decisions formulated on State and private lands will be confined strictly to BLM's mineral interests and the protection of resources affected by actions approved by BLM. These decisions will represent BLM's standards only and will have no bearing on the planning decisions or requirements made by other agencies or individuals. The Analysis will identify the existence or absence of other Federal and State agencies planning decisions and adopt such decisions as appropriate.

Anticipated Issues and Concerns

BLM is responsible for making public lands available of orderly and efficient development of minerals under the principle of balanced multiple use management. In accordance with national guidance, the Analysis will designate the types of areas open with standard resource protection requirements, areas open with special requirements, which may include no surface occupancy, and areas closed to mineral development.

Most of the PD land in Florida occurs as small and widely scattered tracts which are difficult and uneconomical to manage. FLPMA allows the disposal of such lands following consideration in the planning process.

Any development of FMO and disposal of PD lands must be done in a manner that recognizes the environmental impact to other resources. The methods used to carry out these programs and the degree of environmental protection versus resource development varies according to management emphasis. The Analysis will identify issues and concerns on a resource by resource basis. Each resource or associated hazards potentially affected by or affecting the development of FMO or disposal of PD lands will be identified. Resources that have been identified for consideration in the Analysis include, but are not limited to, the following: (1) Mineral Occurrence and Geologic Hazards (2) Soils including Prime and Unique Farmland (3) Cultural and Historical Resources (4) Paleontological Resources (5) Water

Resources (6) Wetlands, Floodplains and Coastal Management Zones (7) Wild and Scenic Rivers (8) Air Quality (9) Wildlife including Threatened and Endangered Species (1) Vegetation including Threatened and Endangered Plant Species (11) Socio-economic Conditions (12) Recreation Areas (13) Environmentally Sensitive Areas and (14) Hazardous Waste.

Public Participation

The intent of this notice is to request the ideas, opinions, and factual information of persons or organizations outside the Bureau. Any individual, organization, group, or agency that wishes to comment on issues, suggest other areas of concern, or have their name put on the mailing list should submit their comments to: District Manager, Bureau of Land Management, Jackson District Office, 300 Woodrow Wilson Ave., Suite 326, Jackson, Mississippi 39213.

Suggestions for additional items of concern to be considered during the planning process should be received as soon as possible but no later than 90 days after publication of this notice to receive maximum consideration.

Further public participation will be a continuous effort. Following completion of the PA/EA the document will be made available for a 60 day public review and comment period. This will be followed by a Record of Decision (ROD)/Plan scheduled for early 1989. All comments will be addressed in the ROD/Plan. If the comments require additional analysis of alternatives or consequences, this will also be contained in the ROD/Plan along with any other revisions additions or deletions made as a result of public input.

The Jackson District will maintain a log and public input file. The log will be used to record any input to the Analysis. All letters, phone calls, minutes of meetings, or any other records of public involvement will be recorded. The log will be used to establish a District mailing list. Copies of the PA/EA will be sent to everyone on the mailing list and anyone who requests a copy.

Copies of the ROD/Plan will be sent to everyone that received the PA/EA and anyone who requests a copy. All information including analysis and background information will be retained in the Jackson District Office.

Additional Information: For information about BLM Planning in Florida, contact: Bob Schoolar, Team Leader, or Chuck Campbell, Environmental Coordinator, Jackson

District Office, Telephone (601) 965-5954 or 965-5951 or at the address above.

Henry Beauchamp,

District Manager.

[FR Doc. 88-1189 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-GJ-M

Oregon, Lakeview District Office; Off-Highway Vehicle Designation

AGENCY: Bureau of Land Management, Interior.

ACTION: Lakeview District Office; notice given relating to off-highway motorized vehicle use on public lands.

SUMMARY: Notice is hereby given relating to the use of off-highway vehicles on certain 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 lands under the administration of the Bureau of Land Management are changed from the existing open designation and are hereby redesignated as limited, under Interim Management Policy and Guidelines for Lands under Wilderness Review with regard to off-highway use.

The areas affected by the designations are managed by the Lakeview District and are located in Lake and Harney Counties, Oregon.

These designations are published as final until such time that changes in resource management warrant modifications. For further information contact: Doug Troutman, Outdoor Recreation Planner, Bureau of Land Management, P.O. Box 151, Lakeview, Oregon 97630, telephone (503) 947-2177.

Limited Designations

Twelve Wilderness Study Areas (WSA's), comprising 423,270 acres, will be managed in accordance with the nonimpairment criteria of the Wilderness Interim Management Policy which allows off-highway vehicle use of continue in the manner and degree on ways and trails where such use was occurring on October 21, 1976. The Sand Dunes WSA, 1-24, will remain open to vehicles designed for travel across sand dunes under this limited designation, except where closed to vehicles by prior designations.

WSA unit No.	WSA name	Acres
1-2	Devils Garden	29,680
1-3	Squaw Ridge	28,340
1-22	Four Craters	12,600
1-24	Sand Dunes	16,440
1-58	Diablo Mountain	113,120
1-78	Orejana Canyon	24,600
1-101	Abert Rim	23,760

WSA unit No.	WSA name	Acres
1-117	Fish Creek Rim	16,690
1-132	Guano Creek	10,350
1-139	Spaulding	69,530
1-146	Hawk Mountain	69,640
1-146B	Sage Hen Hills	8,520

The limited vehicle use designations will remain in effect until Congressional release of WSA's, or if actual or unforeseeable use levels cause the nonimpairment criteria to be violated, in which case more restrictive designations may be made.

The designations become effective upon publication in the Federal Register and will remain in effect until rescinded or modified by the Lakeview District Manager. Information and maps of the above areas are available at the Bureau of Land Management, Lakeview District Office, 1000 South 9th Street, Lakeview, Oregon 97630, telephone (503) 947-2177.

Richard Harlow,

Acting District Manager.

[FR Doc. 88-1257 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-33-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48337-W has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 20 S., R. 5 E.,

Sec. 31 NW ¼ NE ¼.

(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to \$5 per acre per year, and royalty increased to 16 2/3 percent. The \$500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from January 1, 1987, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48337-W as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective January 1, 1987, subject to the terms and conditions cited above.

Dated: January 15, 1988.

Kay Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 88-1253 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-JA-M

[WY-920-08-4111-15; W-84956]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

January 14, 1988.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-84956 for lands in Johnson County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessees have agreed to the amended lease terms for rentals and royalties at rates of \$5 per acre, or fraction thereof, per year and 16% percent, respectively.

The lessees have paid the required \$500 administrative fee and \$125 to reimburse the Department for the cost of this Federal Register notice.

The lessees have met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Minerals Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-84956 effective August 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Patricia J. Wattles,

Acting Chief, Leasing Section.

[FR Doc. 88-1254 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-22-M

[Alaska AA-48578-C]

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48578-C has been received covering the following lands:

Copper River Meridian, Alaska

T. 6 S., R. 1 E.,
Sec. 16, NE $\frac{1}{4}$ SE $\frac{1}{4}$,
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to \$5 per acre per year, and royalty increased to 16% percent. The \$500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from August 1, 1987, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48578-C as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective August 1, 1987, subject to the terms and conditions cited above.

Kay Kletka,

Chief, Branch of Mineral Adjudication.

Dated: January 15, 1988.

[FR Doc. 88-1261 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-JA-M

[MT-075-08-4212; M74179]

Realty Action; Lease; Jefferson County, MT

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Notice of realty action; proposed lease of public lands in Jefferson County, Montana.

SUMMARY: The following described lands have been determined to be available for a commercial lease for a radon health mine under section 302 of the Federal Land Policy and Management Act of 1976. 43 U.S.C. 1716.

Principal Meridian, Montana

T. 6 N., R. 4 W.,

Sec. 30, Portion of Mineral Survey M10871 in NW $\frac{1}{4}$ NW $\frac{1}{4}$.

DATES: For a period of up to and including January 22, 1988, interested parties may submit comments to the address shown below. Any adverse comments will be evaluated by the BLM, Montana State Director, who may vacate, sustain, or modify this realty action and issue a final determination. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this proposed lease is available at the Butte District Office, P.O. Box 3388, Butte, Montana 59702.

SUPPLEMENTARY INFORMATION: The Elkhorn Mining Company of Boulder, Montana has proposed to lease the above described public lands in order to expand their existing radon health mine business. The facilities would include an existing adit, utilities, a service building, parking area, campsites, and an existing access road. The season of use would be from May through October. Whereas, the Elkhorn Mining Co. holds the unpatented mining claim, valid on which the radon mine will be located, and controls the existing access to the mine, a non-competitive lease will be

considered. All existing rights and uses will be protected.

Date: January 15, 1988.

J.A. Moorhouse,

District Manager, Butte District.

[FR Doc. 88-1251 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-DN-M

[MT-920-07-4520-11]

Land Resource Management; Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: Plats of survey of the lands described below accepted December 21, 1987, will be officially filed in the Montana State Office effective 10 a.m. on February 29, 1988.

Principal Meridian, Montana

T. 1 S., R. 6 E.

The plat, in three sheets, represents the dependent resurvey of a portion of the east boundary, and a portion of the subdivisional lines; and the survey of the subdivision of sections 1, 5, 9, 21, and 34, Township 1 South, Range 6 East, Principal Meridian, Montana. The area described is in Gallatin County.

Principal Meridian, Montana

T. 1 N., R. 6 E.

The plat represents the dependent resurvey of a portion of the west boundary, and a portion of the subdivisional lines, and the survey of the subdivision of sections 6, 13, 21, 29, and 31, Township 1 North, Range 6 East, Principal Meridian, Montana. The area described is in Gallatin County.

Principal Meridian, Montana

T. 2 N., R. 6 E.

The plat, in two sheets, represents the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines; and the survey of the subdivision of sections 11, 24, and 25, Township 2 North, Range 5 East, Principal Meridian, Montana. The area described is in Gallatin County.

Principal Meridian, Montana

T. 2 N., R. 6 E.

This plat, in three sheets, represents the dependent resurvey of portions of the west boundary of Township 3 North, Range 7 East, a portion of the south boundary of Township 3 North, Range 6 East, and a portion of the south boundary and subdivisional lines; and the survey of the subdivision of sections 3, 11, 24, and 31, Township 2 North, Range 6 East, Principal Meridian, Montana. The area described is in Gallatin County.

Principal Meridian, Montana

T. 3 N., R. 5 E.

The plat, in two sheets, represents the dependent resurvey of a portion of the south boundary, Township 4 North, Range 5 East, and a portion of the east boundary and

subdivisional lines; and the survey of the subdivision of section 4, Township 3 North, Range 5 East, Principal Meridian, Montana. The area described is in Gallatin County.

These surveys were executed at the request of the U.S. Forest Service.

EFFECTIVE DATE: February 29, 1988.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Marvin LeNoue,

Acting State Director.

Dated: January 13, 1988.

[FR Doc. 88-1190 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-DN-M

Minerals Management Service

Proposed Outer Continental Shelf Oil and Gas Lease Sale 121; Mid-Atlantic Planning Area; Public Scoping Meetings

AGENCY: Minerals Management Service, Atlantic OCS Region, Department of the Interior.

ACTION: Notice of public scoping meetings for proposed Outer Continental Shelf Oil and Gas Lease Sale 121, Mid-Atlantic Planning Area, and the close of the written comment period for scoping.

SUMMARY: This notice announces three public scoping meetings to be held regarding proposed Outer Continental Shelf Oil and Gas Lease Sale 121, Mid-Atlantic Planning Area. The purpose of these scoping meetings is to indicate the area to be studied in an Environmental Impact Statement (EIS), gather public information, identify issues and concerns related to the proposed sale, review the offshore leasing process, and assist in the development of reasonable alternatives for the EIS. The meetings will take place in Charlotte, North Carolina; Newark, New Jersey; and Chantilly, Virginia. In addition, this notice identifies February 12, 1988, as the close of the written comment period of the scoping process.

ADDRESSES:

February 3, 1988: Ramada Inn-South Airport, 515 Clanton Road, Charlotte, NC 28210, Phone: (704) 527-3000.

February 4, 1988: Howard Johnson Hotel and Conference Center, Route 1 South & Haines Ave., Newark, NJ 07114, Phone: (201) 824-4000.

Scoping meetings will have two sessions. The first session will begin at 1 p.m. and will continue until all present have had an opportunity to speak. A second session will begin at 6 p.m. and will continue until 8 p.m. or until all

present wishing to speak have been heard.

A meeting of the Mid-Atlantic Regional Technical Working Group (MARTWG) Committee also open to the public, will be held at the following location.

February 5, 1988: Renaissance Ballroom, Washington/Dulles Ramada Renaissance, 13869 Park Center Road, Chantilly, VA 22021, Phone: (703) 471-9500.

Scoping comments will be taken at 1 p.m. There will not be a second session.

Directions to these locations can be obtained by calling the hotels at the numbers listed above.

Any written scoping comments should be sent to the address below.

FOR FURTHER INFORMATION CONTACT: Barry R. Clark, Minerals Management Service, Atlantic OCS Region, 1951 Kidwell Drive, Suite 601, Vienna, VA 22180, Phone: (703) 285-2165 or FTS 285-2165.

SUPPLEMENTARY INFORMATION: On September 30, 1987, the Minerals Management Service (MMS) published a notice in the *Federal Register* (Volume 52, Number 189) announcing the Call for Information and Nominations and the Notice of Intent to prepare an EIS for proposed OCS oil and gas Lease Sale 121, Mid-Atlantic Planning Area. This began the prelease process leading to the lease sale tentatively scheduled for October 1989, and opened the public scoping period. To ensure that public concerns and issues are identified and addressed in the EIS, three public scoping meetings are scheduled. At these meetings concerned citizens, interest groups, representatives of Government Agencies, and the oil and gas industry will have the opportunity to meet with the MMS staff to discuss issues of concern. Additionally, a presentation on the Sale 121 Area Identification and a brief overview of the offshore leasing program will be made. Although the written comment portion of the scoping period formally ends on February 12, 1988, there will be several other opportunities for public comment on the draft EIS.

Date: January 15, 1988.

Bruce G. Weetman,

Regional Director, Atlantic OCS Region.

[FR Doc. 88-1203 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Mobil Exploration and Producing, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Mobil Exploration & Producing U.S. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 7635, Block 629, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on January 11, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals

Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: January 12, 1988.

J. Rogers Percy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-1191 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Chevron, U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 2444, Block 899, Viosca Knoll Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from existing onshore bases located at Venice and Harvey, Louisiana.

DATE: The subject DOCD was deemed submitted on January 13, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13,

1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: January 14, 1988.

J. Rogers Percy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-1262 Filed 1-21-88; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b) (1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

- A. 1. Parent corporation: Maytag Corporation, 403 West 4th Street North, Newton, Iowa 50208
2. Divisions
 - (i) Maytag Company
 - (ii) Jenn-Air Company
 - (iii) Magic Chef Company
 - (iv) Magic Chef Air Conditioning
 - (v) Admiral Company
 - (vi) Norge Company
 - (vii) Heatube Company
 - (viii) MAYCOR
3. Subsidiaries:
 - (i) Ardac, Inc.—Ohio
 - (ii) Dixie-Narco, Inc.—West Virginia
 - (iii) Jenn Industries, Inc.—Delaware
 - (iv) Holland Distributors, Inc.—Delaware
- B. 1. Parent corporation and address of principal office: USPCI, Inc., 2000 Classen Center, Suite 400 South, Oklahoma City, OK 73106
2. Wholly-owned subsidiaries which will participate in the operations, and State of Incorporation:
 - a. United States Pollution Control, Inc. Incorporated—Oklahoma
 - b. P P M, Inc. of Georgia Incorporated—Georgia
 - c. Hydrocarabon Recyclers, Inc. Incorporated—Oklahoma
 - d. Hydrocarbon Recyclers of Wichita, Inc. Incorporated—Kansas
 - e. Cantro, Inc. Incorporated—Missouri
 - f. Ninth Street Properties, Inc. Incorporated—Missouri
 - g. P P M Canada, Inc. Incorporated—Canada
 - h. Materials Energy Research and Recovery Corporation Incorporated—Utah
 - i. Multial Corporation Incorporated—Georgia

- j. Mineral Byproducts, Inc. Incorporated—Georgia
- k. K B K Enterprises, Inc. Incorporated—Pennsylvania
- l. J T M Industries, Inc. Incorporated—Texas
- m. Ash Management Corporation Incorporated—Georgia
- n. Resource Materials Corporation Incorporated—Wyoming.

Noreta R. McGee,

Secretary.

[FR Doc. 88-1144 Filed 1-21-88; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Quarex Industries, Inc. (a Del. corp.), 47-05 Metropolitan Avenue, Ridgewood Queens, N.Y. 11385.
 2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:
 - (i) Ranbar, Inc. (a New York corp.), 44 College Point Blvd. Flushing, N.Y. 11355.
 - (ii) Western Beef East Orange New Jersey, Inc. (a New Jersey corp.), 1A Dr. Martin Luther King Blvd., East Orange, N.J. 07018.
 - (iii) Quarex Elmont, Inc. (a New York corp.), 45-05 Metropolitan Avenue, Ridgewood Queens, N.Y. 11385.
 - (iv) Western Beef Supermarket, Inc. (a Delaware corp.), 47-05 Metropolitan Avenue, Ridgewood Queens, N.Y. 11385.
 - (v) Awesome Transportation, Inc. (a New York corp.), 47-05 Metropolitan Avenue, Ridgewood Queens, N.Y. 11385.
- Noreta R. McGee,
Secretary.
[FR Doc. 88-1147 Filed 1-21-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

National Cooperative Research Notifications; Microelectronics and Computer Technology Corp.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.*, Microelectronics and Computer Technology Corporation ("MCC") has filed an additional written notification simultaneously with the

Attorney General and the Federal Trade Commission disclosing a new area of planned activity of MCC. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs of actual damages under specified circumstances. The notification identifying the original parties to the project, and the nature and objectives of that project, is published at 50 FR 2633 (January 17, 1985).

MCC will conduct research and development activities in the area of the electronic applications of high temperature superconductors.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 88-1222 Filed 1-21-88; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Water Act; City of Jenkins et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 4, 1988, a proposed Consent Decree in *United States v. City of Jenkins, et al.*, Civil Action No. 87-1, was lodged with the United States District Court for the Eastern District of Kentucky. The Complaint sought penalties and injunctive relief against the City of Jenkins ("City") and the Commonwealth of Kentucky under section 309 of the Clean Water Act, 33 U.S.C. 1319, for the City's violations of effluent limitation provisions of its National Pollutant Discharge Elimination System (NPDES) permit. The City's violations included discharging in violation of permit limitations, poor operation and maintenance, and failure to construct sufficient plant improvements to meet the effluent limitations contained in the permit.

The proposed Consent Decree imposes a permanent injunction against future violations of the Clean Water Act, and imposes a court-ordered compliance schedule to require the City to make the necessary construction and improvements to bring its discharges within the terms and limitations of its NPDES permit. It also imposes a civil penalty of \$3,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044. Comments

should refer to *United States v. City of Jenkins, et al.*, D.J. Ref. 90-5-1-1-2885.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Kentucky, U.S. Post Office and Federal Building, Room 305, 7th and Scott Sts., Covington, Kentucky 41011, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1732(R), Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20004. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

In requesting a copy, please enclose a check in the amount of \$1.20 (10 cents per page reproduction cost) payable to the "Treasurer of the United States".

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-1192 Filed 1-21-88; 8:45 am]

BILLING CODE 4410-01-M

Lodging of a Consent Decree Pursuant to the Clean Water Act; City of Johnstown, PA

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 28, 1987, a proposed Consent Decree in *United States v. City of Johnstown, Pennsylvania*, Civil Action No. 86-815, was lodged with the United States District Court for the Western District of Pennsylvania.

The complaint filed by the United States alleged violations of its National Pollutant Discharge ("NPDES") permit and the Publicly Owned Pretreatment Works ("POTW") regulations. In July 1974, EPA issued to Johnstown a NPDES permit which set effluent limitations for the discharge of pollutants based on secondary treatment requirements. In June 1980, EPA granted another NPDES permit which contained final secondary effluent limitations that were applicable immediately and contained a requirement that Johnstown submit a schedule of implementing actions to achieve compliance with secondary effluent limitations. The proposed consent decree requires the defendants to construct a secondary sewage treatment plant, meet stringent interim effluent limitations and immediate submission and implementation of a POTW Pretreatment Program. The defendants are also required to pay civil penalties.

The Department of Justice will receive, for a period of thirty (30) days

from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. City of Johnstown, Pennsylvania*, Department of Justice Reference #90-5-1-1-2588.

Copies of the proposed Consent Decree may be examined at the following locations: Office of the United States Attorney, United States Courthouse, 633 U.S. Post Office & Courthouse, 7th Avenue & Grant Avenue, Pittsburgh, Pennsylvania 15219-1955; and, at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 6220, Ninth and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. When requesting a copy, please refer to *United States v. City of Johnstown, Pennsylvania*, Department of Justice Reference #90-5-1-1-2588 and enclose a check in the amount of \$3.10 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-1193 Filed 1-21-88; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Recover Response Costs for Cleanup of Tower Chemical Company Site

In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. 9622(i), and Departmental policy, 28 CFR 50.7, notice is hereby given that on November 30, 1987, a proposed consent decree in *United States v. Tower Chemical Company, et al.* (M.D. Fla., No. 85-100-Civ-Oc-16), was lodged with the United States District Court for the Middle District of Florida. This consent decree settles the claims of the United States against certain defendants to the above-referenced action for response costs incurred or to be incurred under CERCLA arising out of releases of hazardous substances at the Tower Chemical Company site. The settling defendants are the Tower Land Trust, also known as the Gallagher Land Trust,

James Gallagher as trustee of the Trust, James Gallagher (individually), Louis Branding, John Atwater, Charles Nau, Alan Parker and Bobby Duncan as beneficiaries of the Trust and O.T. Enterprises, Inc. These defendants bought portions of the site from Tower Chemical Company after polluting operations by the company ceased.

The proposed consent decree requires these defendants to pay the United States \$110,000 within one year from the entry of the decree and interest on any sum not paid within 30 days from entry of the decree. Additionally, the beneficiaries of the Trust have assigned to the United States the net proceeds from sale of the site property they still own. In return, these defendants will receive a release from the claims of the United States in the above-referenced action or from any possible claims under the Resource Conservation and Recovery Act of 1976. Excepted from the release extended to these defendants are other claims under CERCLA, and claims for response costs incurred as the result of new information (sections 122(f)(3) and (f)(6)(c); section 121(c)) and conditions unknown at the time the consent decree is entered (section 122(f)(3) and (6)).

The proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1527, Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. There is a copying charge of \$1.20 reflecting a rate of \$.10 per page for the 12-page decree. Checks should be made payable to the Treasurer of the United States.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Tower Chemical Company* (M.D. Fl., No. 85-100-CIV-Oc-16), D.O.J. Ref. No. 90-11-3-64.

Rodger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-1194 Filed 1-21-88; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 1-88]

Privacy Act of 1974; Removal of a System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the United States Marshals Service, Department of Justice, is eliminating a system of records entitled "Special Detail System, Justice/USM-005." Special detail records consist of logistical information generated to ensure that a particular high-risk operational activity, e.g., civil disturbance, special trial, etc., is staffed by the necessary personnel, equipment and skills required to accomplish the safety and protection of those persons involved in or exposed to danger because of the particular activity. Upon review, it has been determined that these records are in fact retrieved by subject matter or case number and thus do not constitute a system of records within the definition of the Privacy Act. Accordingly, the system, as published in the Federal Register on January 29, 1986 (51 FR 3696), is removed from the Department's compilation of Privacy Act systems.

Dated: January 5, 1988.

Harry H. Flickinger,

Assistant Attorney General for Administration.

[FR Doc. 88-1255 Filed 1-21-88; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 3-88]

Privacy Act of 1974; Modified System of Records

Under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Executive Office for United States Attorneys (EOUSA) proposes to modify its system of records entitled "Criminal Case Files, JUSTICE/USA-007," which was last published on August 23, 1983 (48 FR 38326).

In addition to changes which will more accurately describe the record system, EOUSA is adding three new routine uses (identified as (s), (t), and (u)), as well as notice of disclosure under subsection (b)(12) of the Privacy Act (identified as (v)). Routine uses (s) and (t) will support the litigation interests of the Department and the United States by allowing release of information to the courts and other adjudicative bodies during litigation. Routine use (u) will facilitate the collection of overdue debts to the United States by permitting the release of information to Federal, State, local and foreign agencies; to organizations, including consumer reporting agencies;

and to individuals, private counsel, and collection agencies, where necessary and appropriate. In addition, disclosure under subsection (b)(12) of the Privacy Act will assist efforts to encourage the payment of overdue debts. Changes have been italicized for public convenience.

Title 5 of the U.S. Code, Sections 552a(e) (4) and (11), require that the public be given 30 days in which to comment on new routine uses. Therefore, the public is invited to submit written comments by February 22, 1988 to J. Michael Clark, Assistant Director, Facilities and Administrative Services Staff, Justice Management Division, Department of Justice, Room 6402, 601 D Street, NW., Washington, D.C. 20530.

The revised system notice is reprinted below.

Dated: January 5, 1988.

Harry H. Flickinger,

Assistant Attorney General for Administration.

JUSTICE/USA-007

SYSTEM NAME:

Criminal Case Files.

SYSTEM LOCATIONS:

Ninety-four United States Attorneys' Offices (See Appendix identified as Justice/USA-999), Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue NW., Washington, D.C. 20530

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals charged with violations; (b) Individuals being investigated for violations; (c) Defense Counsel(s); (d) Information Sources; (e) Individuals relevant to development of Criminal Cases; (f) Individuals investigated, but prosecution declined; (g) Individuals referred to in potential or actual cases and matters of concern to a U.S. Attorney's Office; (h) Individuals placed into the Department's Pretrial Diversion program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) All case files (USA-33); (b) Docket Cards (USA-115); (c) Criminal Debtor Cards (USA-117a); (d) Criminal Case Activity Card (USA-163); (e) Criminal Debtor Activity Card (USA-164); (f) 3 x 5 Index Cards; (g) Caseload Printouts; (h) Attorney Assignment Sheets; (i) General Correspondence re: Criminal Cases; (j) Reading Files re: Criminal Cases; (k) Grand Jury Proceedings; (l) Miscellaneous Investigative Reports; (m) Information Source Files; (n) Parole Recommendations; (o) Immunity

Requests; (p) Witness Protection Files; (q) Wiretap Authorizations; (r) Search Warrants; (s) Telephone records; (t) Criminal Complaints; (u) Sealed Indictment Records; (v) Files unique to a District; (w) Criminal Miscellaneous Correspondence File; (x) Prosecution Declined Reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301, 28 U.S.C. 547 and 44 U.S.C. 3101

PURPOSE OF THE SYSTEM: Records are maintained for the purpose of prosecuting or otherwise resolving criminal cases or matters handled by the United States Attorneys.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) In the course of investigating the potential or actual violations of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a Federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate Federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or

procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a Federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a Federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of any employee, the issuance of a security clearance, the reporting of an investigation of an employee, the

letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi: Provided That the record does not contain any information identifiable to a specific individual other than such modus operandi;

(l) A record may be disseminated to a foreign country through the United States Department of State of directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in a accordance with the provisions codified in 28 CFR 17.96;

(n) A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title;

(o) Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

(p) Information not otherwise required to be released pursuant to 5 U.S.C. 552 may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record;

(q) A record may be disclosed as a routine use to the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 290.4 and 2906;

(r) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function;

(s) A record, or facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which the United States Attorney's office or the Executive Office for U.S. Attorneys is authorized to appear when i. the United States Attorney's office or the Executive Office for U.S. Attorneys, or any Subdivision thereof, or ii. any employee of the United States Attorney's office or the Executive Office for U.S. Attorneys in his or her official capacity, or iii. any employee of the United States Attorney's office or the Executive Office for U.S. Attorneys in his or her individual capacity where the Department of Justice has agreed to represent the employee, or iv. the United States, where the United States Attorney's office or the Executive Office for U.S. Attorneys determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the United States Attorney's office or the Executive Office for U.S. Attorneys to be arguably relevant to the litigation;

(t) A record, or facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which the United States Attorney's Office is authorized to appear, when the United States, or any agency or subdivision thereof, is a party to litigation or has an interest in litigation and such records are determined by the United States Attorney's Office to be arguably relevant to the litigation;

(u) Records relating to an individual who owes an overdue debt to the United States may be disseminated to (1) a Federal agency which employs the individual to enable the employing agency to offset the individual's salary, (2) a Federal, State, local or foreign agency, an organization, including a consumer reporting agency, or individual to elicit information to assist the United States Attorney in the collection of the overdue debt, (3) a collection agency or private counsel to enable them to collect the overdue debt, and (4) the Internal Revenue Service (IRS) to enable that agency to offset the individual's tax refund. Records

provided to the IRS may be used in a computer matching program to identify individuals who are entitled to refunds against which such offset for overdue debts would be appropriate; and

(v) Notice of disclosure under Subsection (b)(12) of the Privacy Act: Records relating to individuals who owe a past-due debt to the United States may be disseminated to consumer reporting agencies to encourage payment of the past-due debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case number, compliant number of court docket number. Information within this system of records may be accessed by various U.S. Attorney's offices and the Executive Office for United States Attorneys by means of catho-ray tube terminals (CRTs).

SAFEGUARDS:

Information in the system is both confidential and non-confidential and located in file cabinets in the United States Attorney offices. Confidential materials are in locked file drawers and safes, and nonconfidential materials are in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building by CRTs within various U.S. Attorney's offices and the Executive Office for United States Attorneys requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Case files involving no sentence, or sentences of ten years or less, are destroyed ten years after case is closed. Case files involving sentences of more than ten years are destroyed one year after the date of termination of sentence. Both are in accordance with approved retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the Administrative Office/ Asssitant, for the U.S. Attorney for each district (See Appendix).

NOTIFICATION PROCEDURE:

Address inquires to the System Manager for the judicial district in which the case or matter is pending (See Appendix).

RECORD ACCESS PROCEDURE:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a(j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide his or her notarized signature and a return address for transmitting the information. Access requests will be directed to the System Manager (See Appendix).

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court proceedings; data, memoranda and reports from the Court and agencies

thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register**.

[FR Doc. 88-1195 Filed 1-21-88; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 2-88]

Privacy Act of 1974; Modified System of Records

Under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Executive Office for United States Attorneys (EOUSA) proposes to modify its system of records entitled "Civil Case Files, JUSTICE/USA-005," which was last published on August 23, 1983 (48 FR 38326).

In addition to changes which will more accurately describe the record system, EOUSA is adding three new routine uses (identified as (o), (p) and (q)), as well as notice of disclosure under subsection (b)(12) of the Privacy Act (identified as (u)). Routine uses (o) and (p) will support the litigation interests of the Department and the United States by allowing release of information to the courts and other adjudicative bodies during litigation. Routine use (q) will facilitate the collection of overdue debts to the United States by permitting the release of information of Federal, State, local and foreign agencies; to organizations, including consumer reporting agencies; and to individuals, private counsel, and collection agencies, where necessary and appropriate. In addition, disclosure under subsection (b)(12) of the Privacy Act will assist efforts to encourage the payment of overdue debts. Changes have been italicized for public convenience.

Title 5 of the U.S. Code, Sections 552a(e) (4) and (11), require that the public be given 30 days in which to comment on new routine uses. Therefore, the public is invited to submit written comments by February 22, 1988 to J. Michael Clark, Assistant Director, Facilities and Administrative Services Staff, Justice Management Division,

Department of Justice, Room 6402, 601 D Street NW., Washington, DC 20530.

The revised system notice is reprinted below.

Dated: January 5, 1988.

Harry H. Flickinger,
Assistant Attorney General for
Administration.

JUSTICE/USA-005

SYSTEM NAME:

Civil Case Files.

SYSTEM LOCATION:

Ninety-four United States Attorneys' Offices (See Appendix identified as *Justice/USA-999*), Executive Office for United States Attorneys, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals being investigated in anticipation of Civil suits; (b) Individuals involved in Civil suits; (c) Defense Counsel(s); (d) Information sources; (e) Individuals relevant to the development of Civil suits.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) All Civil Case Files (USA-34); (b) Docket Cards (USA-116); (c) Civil Debtor Cards—(USA-117b); (d) Civil Case Activity Card (USA-164); (e) Civil Debtor Activity Card (USA-166); (f) 3 x 5 Index Cards; (g) Caseload Printouts; (h) General Correspondence re: Civil Cases; (i) Reading Files re: Civil Cases; (j) Information Source File; (k) Attorney Assignment sheets; (l) Telephone records; (m) Miscellaneous Investigative files; (n) Lands condemnation files (Appraisal and Negotiator Reports); (o) Tax Case Resource File; (p) Material in Civil File related to Criminal cases arising out of Civil Proceedings; (q) Search Warrants; (r) Files unique to District; (s) Civil Miscellaneous Correspondence File.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301, 28 U.S.C. 547 and 44 U.S.C. 3101.

PURPOSE OF THE SYSTEM: Records are maintained for the purpose of litigating or otherwise resolving civil cases or matters handled by the United States Attorneys or the Executive Office for United States Attorneys.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, civil, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, State, local or foreign agency charged with the responsibility of investigating, defending or pursuing such violation, civil claim or remedy, or charged with enforcing, defending or implementing such law;

(b) In the course of investigating the potential or actual violation or civil liability of any government action or law, civil, or regulatory in nature or during the course of a trial or hearing or the preparation for a trial or hearing for such civil action, a record may be disseminated to a Federal, State, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation or civil action trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an agency;

(c) A record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a Federal, State, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, civil action, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a case or matter may be disseminating to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(h) A record may be disseminated to a Federal, State, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency or to assist in general civil matters or cases;

(i) A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of security clearance as is required, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(j) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of types or courses of action or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(k) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in general crime prevention, the pursuit of general civil, regulatory or administrative civil actions or to provide investigative leads to such country, or assist in the location and/or returning of witnesses and other evidence;

(l) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policymaking positions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.96;

(m) A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title;

(n) A record may be accessed by volunteer student workers and students working under a college work-study program, as is necessary to enable them to perform their function;

(o) A record, or facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which the United States Attorney's office or the Executive Office for U.S. Attorneys is authorized to appear when i. the United States Attorney's office or the Executive Office for U.S. Attorneys, or any subdivision thereof, or ii. any employee of the United States Attorney's office or the Executive Office for U.S. Attorneys in his or her official capacity, or iii. any employee of the United States Attorney's office or the Executive Office for U.S. Attorneys in his or her individual capacity where the Department of Justice has agreed to represent the employee, or iv. the United States, where the United States Attorney's office or the Executive Office for U.S. Attorneys determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the United States Attorney's office or the Executive Office for U.S. Attorneys to be arguably relevant to the litigation;

(p) A record, or facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which the United States Attorney's Office is authorized to appear, when the United States, or any agency or subdivision thereof, is a party to litigation or has an interest in litigation and such records are determined by the United States Attorney's Office to be arguably relevant to the litigation;

(q) Records relating to an individual who owes an overdue debt to the United States may be disseminated to (1) a Federal agency which employs the individual to enable the employing agency to offset the individual's salary, (2) a Federal, State, local or foreign agency, an organization, including a consumer reporting agency, or individual to elicit information to assist the United States Attorney in the collection of the overdue debt, (3) a collection agency or private counsel to enable them to collect the overdue debt, and (4) the Internal Revenue Service (IRS) to enable that agency to offset the individual's tax refund. Records provided to the IRS may be used in a computer matching program to identify individuals who are entitled to refunds against which such offset for overdue debts would be appropriate;

(r) Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would

constitute an unwarranted invasion of personal privacy;

(s) Information not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of this record;

(t) A record may be disclosed as a routine use to the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906; and

(u) Notice of disclosure under Subsection (b)(12) of the Privacy Act: Records relating to individuals who owe a past-due debt to the United States may be disseminated to consumer reporting agencies to encourage payment of the past-due debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices, and the Executive Office for United States Attorneys by means of cathode-ray tube terminals (CRT's).

SAFEGUARDS:

Information in the system is both confidential and nonconfidential and located in file cabinets in the United States Attorney offices. Confidential materials are in locked file drawers and safes, and nonconfidential materials are in unlocked file drawers. Offices are locked during nonworking hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorney's offices and the Executive Office for United States Attorneys requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Records are destroyed ten years after case is closed in accordance with approved retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See appendix.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the case or matter is pending. (See appendix.)

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to examination shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requestor will also provide *his or her notarized signature* and a return address for transmitting the information. Access requests will be directed to the System Manager. (See appendix.)

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552(a)(j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to investigative reports of Federal, State, and local law enforcement, civil

litigation, regulatory and administrative agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of deposition and court proceedings; date, memoranda and reports from the court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the *Federal Register*.

[FR Doc. 88-1196-Filed 1-21-88; 8:45 am]

BILLING CODE 4410-01-M

Office of the Attorney General**United States Trustee System; Certification; Seventh Circuit**

The Attorney General pursuant to section 303 of the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986, Public Law No. 99-554, hereby certifies to the United States Court of Appeals for the Seventh Circuit on this date that, in the region specified in paragraph 581(a)(10) of Title 28, United States Code, composed of the federal judicial districts for Central and Southern Illinois and those established for the State of Indiana, the amendments made by section 113 and subtitle A of title II of the Act and section 1930(a)(6) of title 28, United States Code, will apply 30 days after this date as to all cases commenced under Chapter 7, 11, 12, or 13 of title 11, United States Code, on or after November 26, 1986. The amendments will also apply in cases commenced prior to November 26, 1986, one year after this certification, unless a final report and account of the administration of the estate required under section 704 of Title 11, United States Code, has been filed, or a plan has been confirmed under section 1129, 1225, or 1325 of title 11.

The amendments cited above implement the United States Trustee system in the region and also impose

quarterly fees in chapter 11 cases commenced on or after November 26, 1986. The implementation of the United States Trustee system and the imposition of quarterly fees in those chapter 11 cases commenced prior to November 26, 1986, in which a plan has not been confirmed, will become effective one year after the date of this certification.

The United States Trustee presently serving for the region is responsible, pursuant to section 301(a) of the Act, for implementing the amendments made by the Act in the region hereby certified.

Dated: January 15, 1988.

Edwin Meese III,

Attorney General.

[FR Doc. 88-1301 Filed 1-21-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR**Employment and Training Administration****Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 1, 1988.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 1, 1988.

The petitions filed in this case are available for inspection at the Office of

the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 8th day of January 1988.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Bogen Communication, Inc. (IUE)	Ramsey, NJ	1/11/88	1/4/88	20,382	Public Address Products.
Dirigo Lumber, Co. (Workers)	Greenville, Jct., ME	1/11/88	12/28/87	20,383	Lumber.
MFM Industries, Inc. (USWA)	Meriden, CT	1/11/88	12/13/87	20,384	Brass Products.
Wean Industries, Inc. (Workers)	Youngstown, OH	1/11/88	12/14/87	20,385	Machinery.

[FR Doc. 88-1327 Filed 1-21-88; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment

procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC, 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut:

CT88-1 (Jan. 8, 1988)—p. 65

New York:

NY88-3 (Jan. 8, 1988)—p. 702

NY88-11 (Jan. 8, 1988)—p. 782

NY88-17 (Jan. 8, 1988)—pp. 820, 822

West Virginia:

WV88-2 (Jan. 8, 1988)—p. 1185

Volume II

Iowa:

IA88-4 (Jan. 8, 1988)—p. 38

IA88-5 (Jan. 8, 1988)—pp. 43, 46

Michigan:

MI88-1 (Jan. 8, 1988)—pp. 409-424d

MI88-12 (Jan. 8, 1988)—pp. 508-510, 513

MI88-17 (Jan. 8, 1988)—pp. 524-525

Ohio:

OH88-2 (Jan. 8, 1988)—pp. 738-756b

Volume III

California:

CA88-1 (Jan. 8, 1988)—pp. 34-35, 39

CA88-3 (Jan. 8, 1988)—pp. 66-68

Montana:

MT88-2 (Jan. 8, 1988)—pp. 189-206

Nevada:

NV88-4 (Jan. 8, 1988)—pp. 272, 274, 277

Oregon:

OR88-1 (Jan. 8, 1988)—pp. 302-305

Washington:

WA88-2 (Jan. 8, 1988)—pp. 386-387

WA88-9 (Jan. 8, 1988)—p. 424

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 15th day of January 1988.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 88-1176 Filed 1-21-88; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-87-287-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Buchanan Mine (I.D. No. 44-04856) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On June 29, 1984, petitioner was granted a modification of 30 CFR 75.1103-4 to use an early warning fire detection system using a low-level carbon monoxide detection system (docket number M-83-136-C).
2. This petition concerns paragraph 1(d) of the Decision and Order which states that the velocity of the air current

in the belt conveyor entry not exceed 300 feet per minute.

3. Conditions in the mine require a velocity of air greater than 300 feet per minute to dilute and carry away large amounts of methane liberated during mining and from the mine surfaces after mining.

4. Petitioner states that to restrict the air current in the belt conveyor entries at the mine to 300 feet per minute would allow methane to accumulate above 1.0 volume, and would result in a diminution of safety to the miners.

5. For these reasons, petition requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 22, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: January 12, 1988.

[FR Doc. 88-1329 Filed 1-21-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-288-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Buchanan Mine (I.D. No. 44-04856) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On July 9, 1984, petitioner was granted a modification of 30 CFR 75.326 to use belt haulage entries as intake aircourses to ventilate active working places (docket number M-83-135-C).
2. This petition concerns paragraph 1(d) of the Decision and Order which states that the velocity of the air current in the belt conveyor entry not exceed 300 feet per minute.
3. Conditions in the mine require a velocity of air greater than 300 feet per minute to dilute and carry away large

amounts of methane liberated during mining and from the mine surfaces after mining.

4. Petitioner states that to restrict the air current in the belt conveyor entries at the mine to 300 feet per minute would allow methane to accumulate above 1.0 volume, and would result in a diminution of safety to the miners.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 22, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: January 12, 1988.

[FR Doc. 88-1330 Filed 1-21-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-293-C]

Eastern Associated Coal Corp.; Petition for Modification Safety Standard

Eastern Associated Coal Corporation, 800 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Federal No. 2 Mine (I.D. No. 46-04156) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located in by the last open crosscut and be kept at least 150 feet from pillar workings.
2. Petitioner states that the longwall mining sections will increase in width. This increase in width will require 2300 horsepower to power the longwall system. In order to supply such power to a longwall system from a power system limited to 1000 volts, the following problems arise:

(a) The ampacity requirements at 1000 volts are such that very heavy cables are required. These large, heavy cables can cause congested work space, handling problems, and the accidents associated with sprains and strains;

(b) Poor voltage regulation resulting in motor overheating and lack of torque to be applied to the face conveyor; and

(c) At 1000 volts, the interrupting limits of the available circuit breakers is approached, resulting in a diminished safety factor.

3. As an alternate method, petitioner proposes to use high-voltage (2,400 volt) cables to supply power to permissible longwall face equipment in or in by the last open crosscut, with specific equipment and conditions as outlined in the petition.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 22, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: January 12, 1988.

[FR Doc. 88-1331 Filed 1-21-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-271-C]

M & G Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

M & G Coal Company, Inc., Route 1, P.O. Box 20, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.313 (methane monitors) to its Mine No. 1 (I.D. No. 15-16215) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous monitor, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize the battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 22, 1988. Copies of the petition

are available for inspection at that address.

Patricia W. Silvey,
Director, Office of Standards, Regulations and Variances.

Date: January 12, 1988.

[FR Doc. 88-1332 Filed 1-21-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-267-C]

Perkins Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Perkins Coal Company, Inc., General Delivery, Bryant Store, Kentucky 40921 has filed a petition to modify the application of 30 CFR 75.313 (methane monitors) to its Mine No. 1 (I.D. No. 15-14186) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous monitor, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize the battery tractor

immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 22, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,
Director, Office of Standards, Regulations
and Variances.

Date: January 12, 1988.

[FR Doc. 88-1333 Filed 1-21-88; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials; Opening of Files

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of files.

SUMMARY: Opening of selected subject categories of the Nixon White House Central Files (WHCF). Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (88 Stat. 1695; 44 U.S.C. 2111 note) and § 1275.42(b) of the Public Access Regulations implementing the Act (36 CFR Part 1275), the agency has identified, inventoried, and prepared for public access selected integral file segments of materials among the Nixon Presidential materials.

DATES: The National Archives intends to make the integral file segments described in this notice available to the public beginning March 22, 1988.

Any person who believes it necessary to file a claim or privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense before March 15, 1988.

ADDRESSES: The file segments will be made available to the public at the National Archives' Alexandria facility located at 845 South Pickett Street, Alexandria, Virginia.

Petitions concerning access must be sent to the Archivist of the United States, National Archives and Records Administration (N), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: James J. Hastings, Acting Director, Nixon Presidential Materials Project Staff, 703-756-6493.

SUPPLEMENTARY INFORMATION: The integral file segments that have been prepared for public access consist of 138.6 cubic feet of textual materials that were maintained by the White House Central Files Unit during the Presidency of Richard M. Nixon. This is the second of a series of openings of Central Files; the previous opening was on December 1, 1986.

The White House Central Files Unit is a permanent organization within the White House complex that maintains a central filing and retrieval system for the records of the President and his staff. White House staff members and offices, except those offices which function as permanent housekeeping operations, use the Central Files as a repository for documents that are generated or received by the President and his staff during the normal course of business.

The materials designated for opening to the public were selected from the Subject Files of the Central Files. The Subject Files are based on an alphanumeric file scheme of 61 primary subject categories, which are further divided into numerous sub-categories. Eight of these subject categories have been prepared for opening on March 22, 1988.

The Subject Files reflect the diverse activities of the President and his staff and include considerable correspondence with the general public and Government officials, policy-making and policy-implementation documents, routine administrative documents, and materials relating to social events and the ceremonial aspects of the Nixon Presidency.

Documents in the Subject Files were segregated into two major divisions, "Executive" and "General," with no cross-references between them. "Executive" material consists of

correspondence and other documents of particular importance based on the item's source or nature. These include letters and other documents received from or sent to Federal agencies, Members of Congress, State Governors and local officials, foreign heads of state, and other prominent correspondents. It also includes official documents that were acted upon by the President or one of his staff assistants. "General" material comprises those items received from the general public and other sources, which usually were not handled at as high a level as "Executive" material.

Listed below are the eight primary subject categories of the Central Files that have been processed and will be made available to the public on March 22.

Subject category	Volume (cubic feet)
Countries (CO)	30
Federal Aid (FA)	12.6
Federal Government (FG):	
Office of Economic Opportunity (FG 6-7)	1.6
Office of Emergency Preparedness (FG 6-8)	1
Council on Environmental Quality (FG 6-17)	0.6
National Energy Office (FG 6-23)	0.3
Energy Policy Office (FG 6-25)	1
Federal Energy Office (FG 6-26)	0.3
Department of State (FG 11)	4.6
Department of the Interior (FG 13)	2.6
Indian Claims Commission (FG 142)	0.3
Federal Energy Administration (FG 377)	0.3
Proposed Departments, Agencies, Boards, and Commissions (FG 999)	5.3
Finance (FI)	24
Foreign Affairs (FO)	28
International Organizations (IT)	9
Meetings and Conferences (MC)	6
White House Administration (WH)	10.6

Public access to some of the items in these integral file segments will be restricted as outlined in 36 CFR 1275.50 or 1275.52 (Public Access Regulations).

Dated: January 19, 1988.

Claudine J. Weiber,
Deputy Archivist of the United States.

[FR Doc. 88-1278 Filed 1-21-88; 8:45 am]

BILLING CODE 7515-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-322-OL]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Reconstitution of Atomic Safety and Licensing Appeal Board

On January 4, 1988, the Chairman of the Atomic Safety and Licensing Appeal Panel reconstituted the Atomic Safety and Licensing Appeal Board for the emergency planning phase (OL-5) of this

operating licensing proceeding to consist of the following members.

Christine N. Kohl, Chairman
Alan S. Rosenthal
Dr. W. Reed Johnson

Notice is given that, in accordance with the action of the Chairman taken under the authority of 10 CFR 2.787(a), the jurisdiction of this Board has been extended to all phases of this operating licensing proceeding.

Dated: January 13, 1988.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 88-1180 Filed 1-21-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443-OL & 50-444-OL]

Public Service Company of New Hampshire, et al. (Seabrook Station, Units 1 and 2); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for the offsite emergency planning phase of this operating license proceeding:

Alan S. Rosenthal, Chairman
Thomas S. Moore
Howard A. Wilber

Dated: January 13, 1988.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 88-1181 Filed 1-21-88; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on TVA Organizational Issues; Meeting

The ACRS Subcommittee on TVA Organizational Issues will hold a meeting on February 2 and 3, 1988, TVA Chattanooga Office Complex, 1101 Market Street, Chattanooga, TN.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, February 2, 1988—8:30 a.m.

until the conclusion of business

Wednesday, February 3, 1988—8:30 a.m.

until the conclusion of business

The Subcommittee will continue its review of the safety issues associated with TVA management reorganization and the Sequoyah restart.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be

accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practical so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: January 14, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88-1179 Filed 1-21-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-440]

The Cleveland Illuminating Co. et al; Environmental Assessment and Findings of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the scheduler requirements of Appendix J to 10 CFR Part 50 to The Cleveland Electric Illuminating Company (CEI), Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company (the licensees) for the Perry Nuclear Power Plant, Unit No. 1, located at the licensees' site in Lake County, Ohio. The exemption was requested by the licensees by letter from CEI dated September 11, 1987.

Environmental Assessment

Identification of Proposed Action

The exemption will provide, for 14 containment isolation valves, a one-time relief from the requirement of Section III.D.3 of Appendix J, 10 CFR Part 50, to perform Type C local leak rate tests (LLRTs) at each plant shutdown for refueling but in no case at intervals greater than two years. The licensees have proposed to conduct these tests prior to startup from the first refueling outage currently scheduled for January 1989.

The Need for the Proposed Action

The end of the initial 24-month testing intervals for most of the Perry Nuclear Power Plant containment isolation valves is approaching in early 1988. With the exception of these 14 valves, the licensees either have, or plan to perform the required Type C tests. Many of the tests were conducted during the maintenance outage in July/August 1987. The licensees have stated that due to plant constraints it was not possible to perform the testing of these 14 valves without extending the outage solely for the purpose of these tests.

The licensees have further indicated that it is not desirable for them to schedule an additional outage, nor to extend other scheduled outages, for the sole purpose of performing these LLRTs, as this would result in a net increase in overall outage time or would subject the plant equipment and systems to the detrimental effects inherent in an additional shutdown and startup operation.

Testing of the valves covered by the requested exemption would require one or more of the following plant conditions:

- 1) Drywell head removal.
- 2) Both Residual Heat Removal (RHR) shutdown cooling loops rendered inoperable.
- 3) Reducing the number of Emergency Core Cooling System (ECCS) and or shutdown cooling loops below the Technical Specification required systems (when taken in conjunction with other planned necessary outage work).

The licensees do not plan to remove the drywell head until the first refueling outage. To render both loops of RHR shutdown cooling inoperable, the licensees would either be required to remove the drywell and reactor heads and flood the vessel, or wait until decay heat is reduced such that ambient losses are sufficient to maintain cold shutdown. The next scheduled outage of this duration is the first refueling outage.

Environmental Impacts of the Proposed Action

The licensees have indicated that Type C LLRTs will have been completed for the valves covered by the requested exemption prior to their exposure to an operating environment of greater than 24 months due to the low power testing environment the valves were exposed to prior to January 1987. Further, the licensees have surveyed industry LLRT data for valves of this type and have determined that for all types of valves identified in the requested exemption, the failure rates were low (on the order of 5-6%, worst case). In cases where one-time extensions had been granted at other nuclear power plants, the majority of valves subject to the extensions exhibited the same or lower leakage rates as had been identified in previous tests. Therefore, the licensees have concluded that the granting of the requested exemption would not present a significantly increased probability of containment leakage other than contemplated in Appendix J.

The Commission's staff has determined that granting the proposed exemption would not significantly increase the probability or amount of expected containment leakage and that containment integrity would thus be maintained. Consequently, the probability of accidents would not be increased, nor would the post-accident radiological releases be greater than previously determined. Neither would the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves a change to surveillance and testing requirements. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Because the Commission has concluded that there is no significant environmental impact associated with the proposed exemption, any alternative would have either no or greater environmental impact. The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts attributed to the facility but would result in an outage of considerable duration

with attendant costs and would result in an unnecessary loss of power to the grid when the distribution system's need for power is high.

Alternative Use of Resources

This action involves no use of resources not previously considered in connection with the "Final Environmental Statement Related to Operation of the Perry Nuclear Power Plant, Units 1 and 2," dated August 1987.

Agencies and Persons Consulted

The Commission's staff reviewed the licensees' request and did not consult other agencies or persons. The State of Ohio was consulted with regard to a related Technical Specification change to the Perry Nuclear Power Plant Facility Operating License.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with aspect to this action, see the application for exemption dated September 11, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, DC, and the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Bethesda, Maryland, this 19th day of January, 1988.

For the Nuclear Regulatory Commission,

Martin J. Virgilio,

Director Project Directorate III-1 Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-1415 Filed 1-21-88; 9:20 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—
Wednesday, February 10, 1988
Wednesday, February 24, 1988

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under Subchapter IV, Chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, DC 20415, (202) 632-9710.

Thomas E. Anfinson,
Chairman, Federal Prevailing Rate Advisory Committee.

January 13, 1988.

[FR Doc. 88-1250 Filed 1-21-88; 8:45 am]

BILLING CODE 6325-01-M

PENSION BENEFIT GUARANTY CORPORATION**Request for the Office of Management and Budget Review of Public Information Collection; PBGC Form 1-ES, Estimated Premium Payment****AGENCY:** Pension Benefit Guaranty Corporation.**ACTION:** Notice of information request submitted for OMB review and approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") has requested review and approval by the Office of Management and Budget of PBGC Form 1-ES, which form will be used by certain pension plan administrators to make estimated premium payments to the PBGC. PBGC Form 1 has been used by administrators of plans with 500 or more participants to determine the amount of premiums (a flat rate per capita amount) due to be paid to the PBGC by the Original Filing Due Date, *i.e.*, on or before the last day of the second month following the close of the prior plan year, and to pay the amount finally determined to be due on the Reconciliation Due Date, *i.e.*, the last day of the seventh month following the close of the prior plan year. The Pension Protection Act ("PPA") (Subtitle D of Title IX of the Omnibus Budget Reconciliation Act of 1987) establishes a new premium structure for single-employer plans, consisting of a flat rate per capita assessment plus an additional assessment based on the value of a plan's unfunded vested benefits. While the PBGC plans to extend the premium due dates for the new variable rate portion of the premium, the due date for payment of the flat rate assessment by large plans (both single-employer and multiemployer) will remain unchanged. The PBGC has determined that a simplified premium estimate form will facilitate the filing and payment of the flat rate assessment by the two-month deadline applicable to the large plans. This new form, PBGC Form 1-ES, rather than the full PBGC Form 1, will be used by large plans to meet their initial filing deadline—the Original Filing Due Date. The effect of this notice is to advise the public that the PBGC has requested OMB approval of PBGC Form 1-ES, and that, for the reasons set forth below, the PBGC has requested expedited consideration by OMB.

ADDRESSES: All written comments (at least three copies) should be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3208 New

Executive Office Building, Washington, DC 20503, with a copy to the Pension Benefit Guaranty Corporation, Office of the General Counsel (Code 22500), 2020 K Street NW., Washington, DC 20006. The information request will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel (Code 22500), 2020 K Street NW., Washington, DC 20006; telephone 202-778-8851 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act (44 U.S.C. Chapter 35) establishes policies and procedures for controlling the paperwork burdens imposed by Federal agencies on the public. Under the provisions of the Act and its implementing regulations, agencies are required to submit information collection requests to the Office of Management and Budget for review and approval, and to publish a notice in the *Federal Register* notifying the public of the submission.

The Pension Benefit Guaranty Corporation ("PBGC") is required by 29 U.S.C. 1306 and 1307 to collect premiums from pension plans covered under the termination insurance program that it administers. The collection of information to determine the amount of, and to collect, such premiums is necessary for the PBGC to fulfil that legal requirement. Premiums currently are paid with the filing of PBGC Form 1, approved for use through December 31, 1990 (OMB No. 1212-0009). Under the PBGC's regulation on Payment of Premiums, 29 CFR Part 2610, PBGC Form 1 is due to be filed by plans with 500 or more participants on the Original Filing Due Date, *i.e.*, no later than the last day of the second month following the close of the prior plan year. If the premium is based on an estimated participant count or is otherwise determined to be inaccurate, a "reconciliation" PBGC Form 1 is to be filed by these plans, reporting and paying the premium finally determined to be due, no later than the Reconciliation Due Date, *i.e.*, the last day of the seventh month following the close of the prior plan year. Smaller plans file their PBGC Form 1 on or before the latter date.

The Pension Protection Act ("PPA") (Subtitle D of Title IX of the Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, 101 Stat. 1330 (Dec. 22,

1987)) amended 29 U.S.C. 1306 and 1307 to establish a new premium structure for single-employer plans, consisting of a flat rate per capita assessment (as under prior law) plus an additional assessment based on the value of a plan's unfunded vested benefits (a new variable rate assessment). In order to alleviate the burden related to the computation and payment of the variable rate assessment, the PBGC plans to extend the due date for payment of the variable rate premium assessment by single-employer plans until a day 8½ months after the close of the prior plan year. The due date for payment of the flat rate assessment by all plans with fewer than 500 participants also will be extended to that date, but the due date for payment of the flat rate assessment by large plans (both single-employer and multiemployer plans) is unchanged.

Although many plans that must file by the Original Filing Due Date have accurate participant figures permitting a final filing by that two-month deadline, others must estimate the number of participants as of the close of the prior plan year. Under 29 CFR Part 2610, penalties are imposed for late payment of premiums, but PBGC Form 1 currently provides a "safe harbor" estimation procedure whereby plans that must file by the Original Filing Due Date may avoid the late payment penalties. The PBGC has determined that such an estimate is sufficient for purposes of the initial filing required by large plans, and that much of the information that is, or will be, collected on PBGC Form 1 under the new law is unrelated to that estimate. Accordingly, a simplified form providing for estimated premiums to be paid by the Original Filing Due Date by such plans will facilitate their filing by the due date and avoiding the imposition of penalties for late payment. The PBGC Form 1, which is being revised to conform with the provisions of PPA and the Notice of Revised Premium Due Dates, will no longer be used for the initial filing by large plans.

This notice advises the public that the PBGC has requested OMB review and approval of PBGC Form 1-ES. This notice further advises the public that, because the PPA is effective for plan years beginning in 1988, and because the Original Filing Due Date is February 29, 1988, for large plans with a calendar year plan year, the PBGC has requested expedited consideration by OMB.

PBGC Form 1-ES will be filed annually by the plan administrators of plans with 500 or more participants as of the close of the prior plan year. The form will be used to determine the amount of the flat rate per capita

premium assessment owed by such plans on or before the second month following the end of the prior plan year, and to report and pay such premium assessment to the PBGC. The PBGC estimates that the aggregate annual burden imposed on plan administrators in filing the PBGC Form 1-ES is 1,500 hours, based on an estimated 9,000 annual filings. The new form will not result in an actual increase in burden in burden hours because it will be filed on the Original Filing Due Date in lieu of the PBGC Form 1 that is currently required to be filed on or before that date.

Issued at Washington, DC, this 15th day of January 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-1177 Filed 1-21-88; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-16227; 811-4549]

MacKay-Shields MainStay Tax Free Bond Fund; Investment Company Deregistration

January 15, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

Applicant: MacKay-Shields MainStay Tax Free Bond Fund.

Relevant 1940 Act Section: Order requesting deregistration under Section 8(f) and Rule 8f-1.

Summary of Application: Applicant seeks an order declaring that Applicant has ceased to be an investment company.

Filing Date: The application was filed on November 19, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 8, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request

notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. MacKay-Shields MainStay Tax Free Bond Fund, 51 Madison Avenue, New York, New York 10010.

FOR FURTHER INFORMATION CONTACT: Sherry A. Hutchins, Staff Attorney, (202) 272-3026 or Brion R. Thompson, Special Counsel, (202) 272-3016, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. On January 9, 1986, the Applicant was organized as a Massachusetts business trust and registered as an open-end, diversified management investment company under the 1940 Act. Applicant commenced the initial public offering of its shares on May 1, 1986. MacKay-Shields MainStay Series Fund, a Massachusetts business trust ("Trust"), was created and registered as an open-end, diversified investment company under the 1940 Act (File No. 811-4550).

2. On January 27, 1987, the Board of Trustees of the Applicant, including a majority of Trustees who were not interested persons of the Applicant, unanimously (i) approved the transfer of the Applicant's assets and liabilities to MacKay-Shields Tax Free Bond Fund (the "Series"), a series of the Trust (the "Reorganization"), (ii) determined that the Reorganization was in the best interest of the existing shareholders of the Applicant and that the interests of the existing shareholders of the Applicant would not be diluted as a result of the Reorganization and (iii) recommended that the Applicant's shareholders approve the Reorganization. Also, at a meeting of shareholders of the Applicant held on April 27, 1987, a majority of the shareholders present at such meeting, in person or by proxy, approved the Reorganization. An Agreement and Plan of Reorganization dated March 13, 1987, was entered into between the Applicant and the Trust ("Agreement").

3. On May 29, 1987 and pursuant to the Agreement, the Applicant transferred all of its assets and liabilities to the Series in exchange, at their respective net asset values, for a number of shares of beneficial interest

of the Series equal to the number of shares of beneficial interest of the Applicant outstanding immediately before the effective time of the Reorganization. The Series assumed all obligations and liabilities of the Applicant and thereafter the Applicant distributed the shares of the Series to its shareholders in complete liquidation. Upon completion of the Reorganization, each shareholder of the Applicant owned as many full and fractional shares of the Series with the same net asset value, as the number of shares of the Applicant owned by such shareholder immediately prior to the Reorganization.

4. Applicant has not retained any assets other than for the purpose of paying expenses and there are no investment securities retained by the Applicant. Applicant has not, within the past 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are security-holders of the Applicant. Applicant has outstanding expenses which amount to approximately \$85,000 relating to the Reorganization. These expenses include legal and accounting fees and other expenses which will be borne by the Applicant. No brokerage commissions were incurred with the Reorganization.

5. Applicant is not now engaged nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs. Applicant has no other outstanding liabilities, and is not a party to any litigation or administrative proceeding. Applicant is dissolved under Massachusetts State law.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-1321 Filed 1-21-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16228; 812-6700]

Trident Mortgage Securities Co.; Application

January 15, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Trident Mortgage Securities Company.

Relevant 1940 Act Sections:

Exemption requested under Section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks a conditional exemptive order to permit it to engage in mortgage-backed financing, including issuing and selling, or establishing trusts ("Trusts"), or partnerships ("Partnerships") (collectively, "Issuing Affiliates") to issue and sell, one or more series of bonds ("Bonds") collateralized principally by Mortgage Certificates (defined below), and selling residual interests ("Residual Interests") in Applicant and Issuing Affiliates ("Issuers").

Filing Dates: The application was filed on April 30, 1987, and amended on October 14, 1987, December 9, 1987, and December 30, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 8, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Trident Mortgage Securities Company, 4601 Six Forks Road, Raleigh, North Carolina 27609.

FOR FURTHER INFORMATION CONTACT: Carson G. Frailey, Staff Attorney (202) 727-3015, or Karen L. Skidmore, Special Counsel (202) 727-3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION:

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant, a Delaware corporation, is a direct wholly-owned, limited purpose subsidiary of Trident Financial Corporation. Applicant was formed for the purpose of issuing and selling, or establishing Trusts, or Partnerships to issue and sell, series of Bonds, and of purchasing, owning, or selling to such Issuing Affiliates, Mortgage Certificates

(defined below), either owned by Applicant or an Issuing Affiliate, or pledged to Applicant or an Issuing Affiliate by others pursuant to funding agreements ("Funding Agreements"), together with other collateral (e.g., certain collection accounts and reserve funds as specified in the related indenture) (collectively, "Mortgage Collateral"), and pledging such Mortgage Collateral to a trustee (as described below) to secure a series of Bonds.¹ Issuers will not engage in any business or investment activities unrelated to such purpose.

2. Each Issuing Affiliate will be created under the laws of one of the states of the United States pursuant to a separate agreement (each an "Organizational Agreement"). For each Trust, the Organizational Agreement will be between Applicant, acting as depositor, and an independent bank, trust company, or other fiduciary acting as owner trustee ("Indenture Trustee"). For each Partnership, the Organizational Agreement will be between Applicant (or a limited purpose subsidiary thereof), as general partner, and one or more limited partners. Each Partnership will be formed under the provisions of the Revised Uniform Limited Partnership Act as in effect in the state of its organization. Applicant will not organize a Partnership Issuer in any state unless the laws of such state provide for the limited liability of the limited partners. Each Partnership will be authorized under its Organizational Agreement and applicable state law to conduct its business as contemplated herein, and its contemplated activities will be permissible under the Internal Revenue Code of 1986 ("1986 Code").

3. Each series of Bonds will be issued pursuant to an indenture between an independent trustee (the "Bond Trustee") and the Issuer, as supplemented by one or more supplemental indentures for such series (the "Indenture"). Each Organizational

¹ Each series of Bonds for which an order is requested will be separately secured directly, or indirectly, by collateral consisting principally of mortgage pass-through certificates ("GNMA Certificates"), which are fully guaranteed as to principal and interest by the Government National Mortgage Association, Mortgage Participation Certificates ("FHLMC Certificates") issued and guaranteed by the Federal Home Loan Mortgage Corporation, and/or Guaranteed Mortgage Pass-Through Certificates ("FNMA Certificates") issued and guaranteed by the Federal National Mortgage Association; (collectively, "Mortgage Certificates"). Mortgage Certificates pledged to secure a series of Bonds may or may not represent the entire beneficial interest in the mortgage pools related to such Mortgage Certificates. Applicant anticipates that the Mortgage Certificates securing each series of Bonds will be obtained by the Issuer thereof, using the net proceeds of the sale of such Bonds.

Agreement will provide that Issuing Affiliates will enter into a Management Agreement under which Trident Financial Corporation, or an independent company, will provide certain management services in connection with the issuance of Bonds.

4. For each series of Bonds: (a) Each Issuer will hold no substantial assets other than the Mortgage Certificates; (b) the Mortgage Certificates will have a bond value determined under the Indenture, at the time of issuance and following each payment date, equal to or greater than the outstanding principal balance of the Bonds; (c) scheduled available principal and interest payments on the Mortgage Certificates (together with any required payments from any reserve funds with respect to the Bonds), plus income received thereon at the assumed reinvestment rate, will be sufficient to make the interest payments on and amortize the principal of such Bonds by their stated maturities; and (d) the Mortgage Certificates will be pledged in their entirety by each Issuer to the Bond Trustee, and will be subject to the lien of the related Indenture.

5. Certain series of Bonds may provide for mandatory redemptions to the extent that principal payments on the Mortgage Certificates cannot be re-invested at a rate that will provide sufficient income to pay interest on the Bonds. A series of Bonds may also be subject to redemption at the option of the Applicant on or after a certain date specified in the Indenture. In addition, the Bonds may also provide that at the Applicant's option, Bonds may be redeemed in the event the aggregate principal amount of the Bonds outstanding is less than the percentage specified in the related Indenture, or in other circumstances specified in such Indenture. Other series of Bonds may provide for optional redemptions by the holders of such Bonds to the extent payments on the underlying Mortgage Certificates and related reserve funds are available to pay the principal of, and interest on, the Bonds so redeemed. Except in limited circumstances arising upon an event of default of the Bonds under the Indenture, Bondholders cannot liquidate Mortgage Certificates to redeem the Bonds prior to maturity. Until such Bonds are paid, the Mortgage Collateral pledged to secure a series of Bonds will not be released from the lien of the Indenture, except that the Trustee may release Mortgage Certificates (1) if new Mortgage Certificates are substituted in accordance with the conditions set out herein or, (2) upon redemption of Bonds in certain

circumstances specified in the Indenture. Applicant contemplates that the Bonds will be sold pursuant to a prospectus or private placement memorandum containing all material disclosures required by the terms of the Securities Act of 1933 (the "Securities Act"). The Indenture for each public offering will be qualified under the Trust Indenture Act of 1939, unless an appropriate exemption is available.

6. In addition to the issuance and sale of the Bonds, the Issuers may sell some or all of the cash flow remaining after paying the amounts due on the Bonds and certain expenses (the "Residual Interests") to one or more sophisticated institutional investors, or to non-institutional "accredited investors" as defined in Rule 501(a) of the Securities Act (collectively, "Residual Interest Holders," or "Eligible Investors") who customarily engage in the purchase or origination of mortgages, or mortgage collateral.

7. Neither, the Issuers, the Residual Interest Holders, the Bond Trustee, the Indenture Trustee, nor the general partners will be able to impair the security afforded by the Mortgage Certificates to the Bondholders because, without the consent of each affected Bondholder, none of the Issuers, the Residual Interest Holders, the Indenture Trustee nor the Bond Trustee will be able to: (a) Change the stated maturity on any Bond; (b) reduce the principal amount, or the rate of interest on any Bond; (c) change the priority of repayment on any class of any series of Bonds; (d) impair or adversely affect the Mortgage Certificates securing a series of Bonds; (e) permit the creation of a lien ranking prior to, or on parity with, the lien of the related Indenture with respect to the Mortgage Certificates; or (f) otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

8. The sale of Residual Interests will not alter the payment of cash flows under any Indenture, including the amounts to be deposited in the collection account, or in any reserve fund created pursuant to an Indenture to support payment of principal and interest on the Bonds.

9. The interests of the Bondholders will not be compromised or impaired by the ability of an Issuer to sell Residual Interest, nor will there be a conflict of interest between the Bondholders and the Residual Interest Holders, because (a) the Mortgage Collateral that will be deposited to secure each series of Bonds will not be speculative in nature because it will directly, or indirectly, consist principally of GNMA Certificates, FNMA Certificates and/or

FHLMC Certificates, which Mortgage Certificates are guaranteed as to timely payment of interest and timely or ultimate payment of principal by each respective agency; (b) the Bonds will be issued only if an independent, nationally-recognized statistical rating agency has rated such Bonds in one of its two highest rating categories, which by definition means that the capacity of the Issuer to repay principal and interest on the Bonds is extremely strong; (c) the relevant Indenture subjects the Mortgage Collateral, all income distributions thereon and all proceeds from a conversion, voluntary or involuntary, of any such collateral to a first-priority, perfected security interest in the name of the Bond Trustee on behalf of the Bondholders;² and (d) the Residual Interest Holders are entitled to receive only current distributions representing the residual payments on the collateral from the relevant Issuer. Furthermore, unless the Issuer elects to be treated as a "real estate mortgage investment conduit" under the 1986 Code, the Residual Interest Holders (or the general partner if the Issuing Affiliate is a Partnership) of a particular series of Bonds will be liable for the administrative expenses in respect of such series of Bonds (other than the principal and interest on such Bonds) to the extent not previously paid from the trust estate.

10. Neither the choice of the form of Issuer, nor the identity of the Residual Interest Holders in such Issuer, will alter the payments to be made to Bondholders, which payments are governed by the Indenture. The value of the interests to Residual Interest Holders will be much less than the value of the bonds to Bondholders. Applicant does not intend to deposit, in respect of any series of Bonds, Mortgage Certificates with a collateral value that

² The Indenture further specifically provides that no amounts may be released from the lien of the Indenture to be remitted to the Issuer (or any Residual Interest Holder) until (i) the Bond Trustee has made the scheduled payments of principal and interest on the Bonds, (ii) the Bond Trustee has received all fees currently owed to it, and (iii) to the extent required by any supplemental indentures executed in connection with the issuance of the Bonds, deposits have been made to certain reserve funds which will ultimately be used to make payments of principal and interest on the Bonds. Each Issuer is obligated to collect, or cause to be collected, all amounts released from the lien of the Indenture by the Bond Trustee and to pay the balance remaining after expenses to the Residual Interest Holders in accordance with their interests. For Issuing Affiliates, once amounts have been released from the lien of the Indenture, Trustee, the Organizational Agreements will provide that the Indenture Trustee or general partner, as the case may be, has a lien superior to that of the Residual Interest Holders in and to the remaining cash flow.

exceeds 110% of the aggregate principal amount of the related Bonds.

11. Except for the limited right to substitute Mortgage Collateral, it will not be possible for the Residual Interest Holders to alter the Mortgage Certificates initially deposited, and, in no event will such right to substitute Mortgage Certificates result in a diminution in the value or quality of the Mortgage Collateral. Therefore, although substituted Mortgage Certificates may have a different prepayment experience than the original Mortgage Certificates, the interests of the Bondholders will not be impaired because: (a) The prepayment experience will be determined by market conditions beyond the control of the Residual Interest Holders, which market conditions are likely to affect all Mortgage Certificates of similar payment terms and maturities in a similar fashion; (b) the interests of the Residual Interest Holders are not likely to be greatly different from those of the Bondholders with respect to Mortgage Certificate prepayment experience; and (c) to the extent that it may be possible for the Residual Interest Holders to cause the substitution of Mortgage Certificates which have a different prepayment experience than the original Mortgage Certificates, this situation is no different from the standpoint of the Bondholders than the traditional collateralized mortgage obligation structure where bonds are issued by an entity which is a single purpose finance subsidiary.

Applicant's Legal Conclusions

The requested order is necessary or appropriate in the public interest because: (a) The Issuers should not be deemed to be entities to which the provisions of the 1940 Act were intended to be applied; (b) the Issuers may be unable to proceed with their proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) the Issuers' activities are intended to serve a recognized and critical public need; (d) granting the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the Securities Act, and thereafter by the Bond Trustee (or Indenture Trustee), representing their interests under the Indenture; and (e) the Residual Interests will be held entirely by the Applicant, or offered only to a limited number of sophisticated investors through private placements.

Conditions to Order

Applicant agrees that the requested order may be expressly conditioned on the following:

A. Conditions Relating to the Mortgage Collateral for the Bonds

(1) Each series of Bonds will be registered under the Securities Act, unless offered in a transaction exempt from registration pursuant to section 4(2) of the Securities Act.

(2) The Bonds will be "mortgage-related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. In addition, the Mortgage Collateral securing the Bonds will consist principally of GNMA Certificates, FNMA Certificates, and/or FHLMC Certificates, and/or Funding Agreements and promissory notes secured by GNMA Certificates, FNMA Certificates, and/or FHLMC Certificates.

(3) If new Mortgage Certificates are substituted for Mortgage Certificates initially pledged directly, or indirectly, as security for a series of Bonds, the substitute Mortgage Certificates must: (i) Be of equal or better quality than the Mortgage Certificates replaced; (ii) have similar payment terms and cash flow as the Mortgage Certificates replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Certificates replaced; and (iv) meet the conditions set forth in Conditions A. (2) and (4). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as Mortgage Collateral. In no event may any new Mortgage Certificate be substituted for any substitute Mortgage Certificates.

(4) All Mortgage Collateral securing a series of Bonds will be held by the Bond Trustee, or on behalf of the Bond Trustee by an independent custodian. Neither the Bond Trustee, the Indenture Trustee nor any custodian, will be an "affiliate" (as the term "affiliate" is defined in Securities Act Rule 405, 17 CFR 230.405) of any Issuer. The Bond Trustee will be provided with a first-priority perfected security, or lien interest, in and to all Mortgage Collateral.

(5) Each series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally-recognized statistical rating agency that is not affiliated with any Issuer. The Bonds will not be considered redeemable securities within the meaning of section 2(a)(32) of the 1940 Act.

(6) At least annually, an independent public account will audit the books and records of the Issuer and, in addition, will report on whether the anticipated payments of principal and interest on the Mortgage Certificates continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Bond Trustee.

B. Conditions Relating to Variable Rate Bonds

(1) Each Series of adjustable, or floating interest rate Bonds will have a set maximum interest rate.

(2) At the time of deposit of the Mortgage Certificates and during the life of the Bonds, the scheduled payments of principal and interest to be received by the Bond Trustee on all Mortgage Certificates, plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate on each Series of adjustable, or floating interest rate Bonds.³ Such Mortgage

³ In the case of a Series of Bonds that contains a class or classes of variable or floating interest rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the variable or floating interest rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the variable or floating interest rate Bonds; (ii) "inverse" floating interest rate Bonds (which will pay a lower rate of interest as the rate increases on the corresponding "normal" floating interest rate Bonds); (iii) variable or floating rate collateral (such as variable rate FNMA Certificates) to secure the Bonds; (iv) interest rate swap agreements to a counterparty at a fixed rate of interest based on a stated notional principal amount, such as the principal amount of Bonds in the variable or floating interest rate class of such series, in exchange for receiving corresponding periodic payments from the counterparty at a variable or floating rate of interest based on the same notional principal amount; and (v) hedge agreements (including interest rate futures and options contracts, under which the Issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the variable or floating interest rate class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the Staff of Investment Management ("Staff") of the SEC notice by letter of any such additional mechanisms before they are utilized, in order to give the Staff an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required for a rating of the Bonds in one of the two highest bond rating categories, and no Bonds will be issued for which this is not the case.

Collateral will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds with respect thereto.

C. Conditions Relating to the Sale of Residual Interests

(1) Residual Interests in an Issuer will be offered and sold only to Eligible Investors. Institutional Eligible Investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risks of purchasing Residual Interests and understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests therein. Non-institutional Eligible Investors will be limited to not more than 15, will purchase at least \$200,000 of such Residual Interests and will have a net worth at the time of purchase that exceeds \$1,000,000 (exclusive of their primary residence). Further, non-institutional Eligible Investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing a Residual Interest in such Issuer and will have direct, personal and significant experience in making investments in mortgage-related securities and because of such knowledge and experience, understand the volatility of interest rate fluctuations as they affect the value of mortgage-related securities and residual interests therein. Residual Interest Holders will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds, real estate investment trusts, and other institutional or non-institutional investors as described above which customarily engage in the purchase of mortgages and mortgage-related securities. Mutual funds will continue to be required to satisfy themselves that purchases of such obligations comply with the provisions of section 12(d)(1) of the 1940 Act.

(2) Each sale of a Residual Interest will qualify as a transaction not involving a public offering within the meaning of section 4(2) of the Securities Act.

(3) Each sale of a Residual Interest will prohibit the transfer of a Residual Interest if there would be more than 100 beneficial owners of Residual Interests in an Issuer at any time.

(4) Each sale of a Residual Interest will require each ultimate purchaser thereof to represent that it is purchasing for investment and not for distribution and that it will hold such Residual Interest in its own name and not as nominee for undisclosed investors. Each purchaser of a Residual Interest will be required to agree that it will not resell its Residual Interests except to other Eligible Investors in a private placement, and subject to the same representations and undertakings as bind it.

(5) Each sale of a Residual Interest will provide that (i) no holder of such Residual Interest may be affiliated with the Indenture Trustee for the relevant Issuer and (ii) no holders of a controlling (as that term is defined in Rule 405) Residual Interest in any Issuer may be affiliated with either the custodian of the Mortgage Certificates, or the agency rating the Bonds of the relevant Series.

(6) If the sale of the Residual Interests or equity interests (in the case of a trust, certificate of beneficial interests; in the case of a partnership, partnership interests; in the case of a corporation, stock certificates) results in the transfer of control (as the term "control" is defined in Rule 405) of the Issuer, the relief afforded by any Commission order granted on the application would not apply to subsequent Bond offerings by that Issuer; if the transfer of control is of Applicant, the relief afforded will not apply to subsequent Bond offerings by the Applicant, or by any Issuer established by the Applicant.

D. Conditions Relating to REMICs

(1) The election by an Issuer to be treated as a REMIC will have no effect on the level of the expenses that would be incurred by the Issuer. If such an election is made, the Issuer will provide that all administrative fees and expenses in connection with the administration of the REMIC will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds. The Issuer will provide for the payment of administrative fees and expenses in connection with the issuance of Bonds and the administration of the REMIC by one or more of the methods set forth in the application.

(2) The Issuer will ensure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which or all of the methods (which methods may be used in combination) are selected by the Issuer to provide for the payment of such fees and expenses.

E. Special Condition

Applicant undertakes to secure from each Trust and Partnership its consent to comply with all of the applicable representations and conditions set forth hereinabove, and more specifically described in the application. The Organizational Agreement for each Issuer will contain appropriate covenants regarding the Issuer's compliance with such representations and conditions.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-1322 Filed 1-21-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/1153]

National Committee of the U.S. Organization for the International Radio Consultative Committee (CCIR) (Chairman's Special Ad Hoc Subcommittee); Meeting

The Department of State announces that the Chairman's Special Ad Hoc Subcommittee of the CCIR National Committee will meet on February 10, 1988 at 1:30 p.m. in Room 3524, Department of State, 2201 C Street NW., Washington, DC.

The purpose of the meeting will be to identify issues and begin the development of U.S. positions on matters related to the CCIR that will be addressed at the 1989 Plenipotentiary Conference of the International Telecommunication Union.

Members of the general public may attend the meeting and join in the discussion subject to instruction of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting should contact Warren Richards, Department of State (telephone (202) 647-0049). All attendees must use the C Street entrance to the building.

Dated: January 7, 1988.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 88-1197 Filed 1-21-88; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/1152]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Lifesaving, Search, and Rescue; Meeting

The Working Group on Lifesaving, Search, and Rescue, of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on February 11, 1988 at 10:00 a.m. in Room 4315 at Coast Guard Headquarters, 2100 Second Street SW., Washington, DC.

The purpose of the meeting is to finalize preparations for the 20th Session of the Lifesaving, Search, and Rescue Subcommittee (LSR) of the International Maritime Organization (IMO) which is scheduled for June 13-17, 1988 in London. In particular, the working group will discuss development of U.S. positions dealing with, inter alia, the following topics:

- Clarification of 1983 Amendments to the 1974 Safety of Life at Sea Convention (SOLAS), Chapter III.
 - Maximum stowage height of survival craft.
 - Free-fall lifeboats including requirements for oars and acceleration protection.
 - Hyperbaric lifeboats.
 - Guidance for fast rescue boats.
 - Compatibility of SOLAS Chapter III provisions with the Global Maritime Distress and Safety System (GMDSS).
 - Review of Assembly resolutions relating to lifesaving appliances, which may require revision or revocation as a result of the coming into force of the 1983 SOLAS Amendments.
 - Survival in cold water.
 - Review and amendment of lifesaving provisions of international instruments relating to safety of fishing vessels.
 - Review of SOLAS regulation V/17 (Pilot Ladders and Mechanical Pilot Hoists).
 - Inflatable liferafts.
 - Matters concerning search and rescue, including those related to the 1979 SAR Conference and the introduction of the GMDSS.
 - Compatibility of lifesaving appliances with search and rescue operations.
- Members of the public may attend up to the seating capacity of the room. For further information or for documentation pertaining to the meeting, contact Mr. Robert Markle, U.S. Coast Guard Headquarters (G-MVI-3), 2100 Second Street SW., Washington, DC 20593-0001, Telephone: (202) 267-1444.

Date: January 6, 1988.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 88-1256 Filed 1-21-88; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications of Executive Air Charter, Inc., for Certificate Authority Under Subpart Q

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 88-1-39), Dockets 45173 and 45174.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue orders finding Executive Air Charter, Inc., fit and awarding it certificates of public convenience and necessity to engage in interstate, overseas, and foreign scheduled air transportation.

DATES: Persons wishing to file objections should do so no later than February 3, 1988.

ADDRESSES: Objections and answers should be filed in Dockets 45173 and 45174 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC 20590, and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Linda L. Lundell, Air Carrier Fitness Division, P-56, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-2336.

Dated: January 15, 1988.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 88-1286 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-82-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 160 (7th Meeting); 406 MHz Emergency Locator Transmitters (ELT); Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given for the 7th meeting of the RTCA Special Committee 160 on 406 MHz Emergency Locator Transmitters

(ELT) to be held on February 17-19, 1988, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's remarks; (2) approval of minutes of sixth meeting; (3) review and discussion of EUROCAE 29 working group activities; (4) report on problems of frequency interference in 406 MHz band; (5) review of task assignments from last meeting; (6) continued review of third draft MOPS; (7) task assignments; (8) other business; and (9) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 12, 1988.

Herbert P. Goldstein,

Designated Officer.

[FR Doc. 88-1224 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 147 (24th Meeting); Traffic Alert and Collision Avoidance System; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 147 on Traffic Alert and Collision Avoidance System to be held on February 9-11, 1988, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's remarks; (2) approval of minutes of twenty-third meeting held on October 27-29, 1987; (3) TCAS Program status reports; (4) review of proposed change #5 to RTCA DO-185 TCAS II MOPS; (5) review of proposed change #6 to RTCA DO-185 TCAS II MOPS; (6) TCAS II invalid logic working group meets in separate session; (7) discussion of configuration control procedures; (8) review of TCAS III activities; (9) other business; (10) closing discussion; (11) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 12, 1988.

Herbert P. Goldstein,

Designated Officer.

[FR Doc. 88-1226 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 163 (4th Mtg.); Unintentional or Simultaneous Transmissions That Adversely Affect Two-Way Radio Communications; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given to a meeting of RTCA Special Committee 163 on Unintentional or Simultaneous Transmissions that Adversely Affect Two-Way Radio Communications to be held on February 24-26, 1988, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's remarks; (2) approval of third meeting's minutes; (3) review task assignments; (4) further development of the MOPS; (5) assignment of tasks; (6) other business; and (7) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 14, 1988.

Herbert P. Goldstein,

Designated Officer.

[FR Doc. 88-1227 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-34-M

[Docket No. 045CE; Petition Notice PE 88-2]

Petition of the Fairchild Aircraft Corp.; Exemption

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Petition for exemption.

SUMMARY: This notice publishes for public comment the petition of the Fairchild Aircraft Corporation dated December 4, 1987. The petitioner requests exemption from the requirements of Federal Aviation Regulations (FAR) §§ 23.53(c)(6), 23.53(c)(7), and 23.67(e)(1)(i) of Amendment 23-34 of Part 23 to apply to the certification of the SA227-CC METRO IIC Airplane. The petitioner contends that such action would recognize the validity of the prior FAA approval per the ICAO Annex 8 provisions of Special Federal Aviation Regulation (SFAR) SFAR 41.

The purpose of this notice is to improve the public's awareness of this aspect of the FAA's regulatory activities. Publication of this notice is not intended to affect the legal status of the petition or its final disposition.

DATE: Comments must be received on or before March 22, 1988.

ADDRESS: Send comments on this petition in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (ACE-7), Docket No. 045CE, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected in Room 1558 weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Bobby Sexton, Standards Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition as they may desire. Communications should identify the docket and petition notice number and be submitted in triplicate to the address indicated above. All communications received on or before the closing date for comments will be considered before taking action on the petition. All comments received will be available for examination in the FAA docket. Persons wishing the FAA to acknowledge receipt of their comments

in response to this notice should submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 045CE." The postcard will be date stamped and returned to the commenter.

Normally, the FAA only summarizes petitions for exemption for publication in the Federal Register. In the case of this petition by the Fairchild Aircraft Corporation, however, the FAA has elected to publish the petition verbatim. The FAA further wishes commenters to provide comments on material and discussions provided by Fairchild Aircraft Corporation. This discussion will assist the FAA in evaluating of the merits of the petition.

Although this notice sets forth the contents of the petition as received by the FAA without changes, it should be understood that its publication to receive public comment is in accordance with FAA procedures governing petitions for exemption; it does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the FAA on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedures of FAR Part 11 and reach a conclusion on the merits of the proposal after it has had an opportunity to evaluate the petition carefully in light of the comments received and other relevant matters presented. A summary of the disposition of this exemption will be published in the Federal Register.

The Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for exemption from the Fairchild Aircraft Corporation, Inc., dated December 4, 1987.

Issued in Washington, DC, on January 14, 1988.

John H. Cassady,
Assistant Chief Counsel.

[FR Doc. 88-1228 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-13-M

Advisory Circular; Structural Substantiation of Small Airplane Modifications Involving Increased Engine Power

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC provides information

and guidance concerning an acceptable means of compliance with Part 23 of the Federal Aviation Regulations (FAR) applicable to the structural substantiation of modifications involving increased engine power.

DATE: Commenters must identify File AC 23-XX-15; Subject: Structural Substantiation of Small Airplane Modifications Involving Increased Engine Power, and comments must be received on or before March 22, 1988.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, ATTN: Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri, 64106.

FOR FURTHER INFORMATION CONTACT: Edward A. Gabriel, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 374-6941, or FTS 758-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited: Interested parties are invited to submit comments on the proposed AC. The proposed AC and comments received may be inspected at the Standards Office (ACE-110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background: The Federal Aviation Administration (FAA) has become aware of the need for guidance material concerning structural substantiation of small airplanes for increased engine power. In the past, some FAA approvals involving increased engine power have required complete structural substantiation regardless of the magnitude of the engine power or weight increase. Other approvals have been made on the basis of appendix A of the Civil Aeronautics Manual (CAM) 8 which permits engine changes with no additional structural substantiation, provided the engine weight increase is not greater than 10 percent of the originally certificated engine weight and the torque increase does not exceed 20 percent of the original torque corresponding to the originally

certificated engine power. The guidance provided by this AC is intended to promote uniformity of application of the certification rules.

Issued in Kansas City, Missouri, December 28, 1987.

Barry D. Clements,

Manager, Aircraft Certification Division.

[FR Doc. 88-1229 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-13-M

[Advisory Circular 23-8]

Advisory Circular; Flight Test Guide for Certification of Normal, Utility, and Acrobatic Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Issuance of Advisory Circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 23-8, Flight Test Guide for Certification of Normal, Utility, and Acrobatic Category Airplanes.

Advisory Circular 23-8 provides information and guidance concerning acceptable means, but not the only means, of showing compliance with Part 23 of the Federal Aviation Regulations (FAR) concerning flight tests and pilot judgments.

DATE: Advisory Circular 23-8 was issued by the Central Region, Aircraft Certification Division, on October 20, 1987.

ADDRESSES: How to obtain copies: A copy of AC 23-8 may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or from any of the Government Printing Office bookstores located in major cities throughout the United States. Identify the publication as AC 23-8, Flight Test Guide for Certification of Normal, Utility, and Acrobatic Category Airplanes, Stock Number SN 050-007-00773-6. The cost of AC 23-8 is \$10.00. Send check or money order with your request, made payable to the Superintendent of Documents. Orders for mailing to foreign countries should include an additional 25 percent of the total price to cover handling. No C.O.D. orders are accepted.

Issued in Kansas City, Missouri, January 6, 1988.

Barry D. Clements,

Manager, Aircraft Certification Division.

[FR Doc. 88-1232 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Berks County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Berks County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Phil Ouellet, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108-1086, Telephone: (717) 782-4422. Matthew Mazza, P.E., District Engineer, Pennsylvania Department of Transportation, 1713 Lehigh Street, Allentown, Pennsylvania 18103. James B. Wilson, P.E., Chief Engineer, Pennsylvania Turnpike Commission, P.O. Box 8531, Harrisburg, Pennsylvania 17105.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Turnpike Commission (PTC) and the Pennsylvania Department of Transportation (PADOT), will prepare an environmental impact statement for a proposed project to construct a connector between Pennsylvania Turnpike (I-76) Interchange #22 and I-176 near Morgantown, Berks County, Pennsylvania. The length of the connector is approximately 2.0 miles. The northern terminus and study area limit will be the northernmost end of the proposed ramps or mainline connecting I-176, south of the Shiloh Road overpass. The southern terminus and study area limit will be the connector with the proposed Turnpike Interchange #22, and PA Route 10. The project area will also include proposed ramps to Mineview Drive (T-333) and Mineview Drive reconstruction between PA Route 10 and T-306.

Alternates under consideration include: (1) No action; and (2) the construction of a four-lane limited access connector between I-176 and Turnpike Interchange #22. The purpose of the connector is to provide direct access to the Pennsylvania Turnpike and I-176 which will relieve the existing traffic congested area on Routes 23 and 10.

For each alternative under consideration, the following areas will be investigated: socioeconomic and land use; air quality; noise; energy; flooding; wetlands; archaeological and historical resources; section 4(f) resources; aquatic biology; terrestrial vegetation and wildlife; farmlands,

groundwater and private supplies; visual; hazardous wastes; soils; and geology; construction impacts; and vibration.

Letters describing the proposed EIS plan of study and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who express interest in the project. Public meetings will be held in the area during the winter and spring of 1988. Public notices of the time and place of these meetings and any required public hearings will be given. Public involvement and inter-agency coordination will be maintained throughout the development of the EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA at the address provided above.

[Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, regarding State and local review of Federal and federally assisted programs and projects apply to this program.]

Issued on January 13, 1988.

Manuel A. Marks,

Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 88-1198 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Center for Auto Safety; Denial of Petition for Defect Remedy Hearing

This notice sets forth the reasons for the denial of a petition by Center for Auto Safety, Washington, DC, and others, to conduct a hearing to determine whether a manufacturer had reasonably met its obligation to remedy a safety related defect (15 U.S.C. 1416).

On September 14, 1987, the Center for Auto Safety, New York Public Interest Research Group, and Audi Victims Network, through their attorney Evan W. Johnson, petitioned the National Highway Traffic Safety Administration for a hearing on whether Volkswagen of America (VWoA) had reasonably met its obligation to remedy a safety related defect under section 154 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1414). With respect to Campaign 87V-008 petitioner alleged that it was clear in the eight months following

VWoa's notification to NHTSA that the manufacturer had failed "to repair adequately the defect of sudden acceleration in 1978-86 Audi 5000 automatics". In support of its argument, petitioner noted that 125 reports of "sudden acceleration" had been forwarded to NHTSA by owners whose vehicles had been equipped with the shift lock device intended to eliminate such incidents. According to petitioner, 58 accidents appear to have occurred in such vehicles, resulting in 23 injuries. In the alternative, the petition requests that the Administrator order VWoa to replace or repurchase the vehicles since the manufacturer has failed to repair the defect.

On November 30, 1987, the petition was denied. The agency concluded that a hearing would not contribute any information relevant to the effectiveness of the campaign that it would not be able to obtain through its ongoing investigation of the matter (File C86-01). The petitioner was informed that NHTSA has begun two additional information-gathering activities directly relevant to the issues raised, the first, a study of the occurrence of unintended acceleration in a number of different vehicles including those that were the subject of the petition, and the second, an audit of Campaign 87V-008 involving

contacting 100,000 vehicle owners and inquiring about their experiences with sudden acceleration both before and after vehicle repair.

In addition, subsequent to the filing of the petition, VWoa informed the agency it would replace electronic idle speed control units on specific 5000 models, i.e., all vehicles of the 1984 model year, and all Turbos of the 1985 model year. Because this additional action is directed at preventing unexpected excessive engine idle speed, it is likely to have a bearing on the agency's evaluation of the effectiveness of Campaign 87V-008, and the petitioner was informed that it would not be advisable to conduct a hearing on that recall before obtaining some information on the effect that the more recent campaign will have on the incidence of sudden unintended acceleration. Further, the facts do not warrant an order requiring replacement or repurchase of the vehicles.

(Sec. 156, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on January 19, 1988.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 88-1236 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions for the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in November 1987. The modes of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
3415-X	DOT-E 3415	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.79, 173.92	To authorize alternative mounting and securing procedures for shipping rocket motors, classed as Class A explosives or Class B explosive, on flat-bed highway vehicles. (Mode 1.)
3415-X	DOT-E 3415	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.79, 173.92	To authorize shipment of rocket motors, containing certain Class A or Class B explosives, without overpacking. (Mode 1.)
4661-X	DOT-E 4661	Footle Mineral Co., Exton, PA	49 CFR 173.34(a)(1)	To authorize transport of butyl lithium in petroleum solvent in DOT Specification 4BA240 cylinders with alternative retest procedures. (Modes 1, 2, and 3.)
5112-X	DOT-E 5112	Austin Powder Co., Cleveland, OH	49 CFR 173.62(a), 177.834(l)(1), 177.835(k).	To authorize use of specially designed kettle drum type aluminum containers, for transportation of Class A explosives. (Mode 1.)
5112-X	DOT-E 5112	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.62(a), 177.834(l)(1), 177.835(k).	To authorize use of specially designed kettle drum type aluminum containers, for transportation of Class A explosives. (Mode 1.)
6325-X	DOT-E 6325	J.H. Van Amburgh Explosives, Inc., Dallas, TX.	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tanks or DOT Specification MC-306, MC-307 or MC-312 cargo tanks. (Mode 1.)
6614-P	DOT-E 6614	Clearwater Chemical Corp., Clearwater, FL	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to exemption 6614. (Mode 1.)
6671-X	DOT-E 6672	Chandler Evans, Inc., West Hartford, CT	49 CFR 173.302(a)(4), 175.3	To authorize manufacture, marking and sale of welded or seamless nonrefillable non-DOT specification steel cylinders, for transportation of certain nonliquefied compressed gases. (Mode 1, 2, and 4.)
7072-X	DOT-E 7072	Container Corp., of America, Wilmington, DE	49 CFR Part 173, Subparts D, E, F	To authorize manufacture, marking and sale of non-DOT specification 34 type of containers, for transportation of certain liquid organic peroxides, oxidizers and corrosive, flammable and poison B liquids. (Modes 1, 2, and 3.)
7087-X	DOT-E 7087	UNITEK Corp., Monrovia, CA	49 CFR 173.286(b), 175.3	To authorize shipment of small quantities of certain hazardous materials in non-DOT specification glass, polyethylene or other plastic containers. (Modes 1, 2, 3, 4, and 5.)
7280-X	DOT-E 7280	U.S. Department of Defense, Falls Church, VA.	49 CFR 176.905(c), 176.905(d)	To authorize fuel tanks to be 3/4 full instead of 1/2 full and vehicles to be transported with batter cables connected if the holds or compartments of a vessel in which vehicles are loaded are mechanically ventilated. (Mode 3.)
7536-X	DOT-E 7536	U.S. Department of Defense, Falls Church, VA.	49 CFR 146.29-41	To authorize an increase in the maximum allowable draft weights for five and ten ton rated booms, for shipment of military explosives. (Mode 3.)
7542-X	DOT-E 7542	U.S. Cylinders, Inc., Citronelle, AL	49 CFR 173.303(a)	To authorize manufacture, marking and sale of non-DOT specification steel cylinders, for transportation of certain flammable gases. (Modes 1, 2.)
7616-P	DOT-E 7616	Wisconsin Central, Ltd., Roesmont, IL	49 CFR 172.204(a), 172.204(d)	To become a party to exemption 7616 (Mode 2.)
7894-X	DOT-E 7694	Borg-Warner Fluid Controls, Van Nuys, CA.	49 CFR 173.302(a)(4), 175.3	To authorize use of non-DOT specification welded, or seamless, nonrefillable cylinders, for shipment of non-liquefied compressed gases. (Modes 1, 2, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
7753-X	DOT-E 7753	Stauffer Chemical Co., Westport, CT	49 CFR 173.190(b)(2)	To authorize shipment of yellow phosphorous in a tight-head 55-gallon DOT Specification 17C drum. (Modes 1, 2, and 3.)
7835-X	DOT-7835	Wilson Oxygen & Supply, Inc., Austin, TX	49 CFR 177.848, Part 107 Appen. B(a)	To authorize transport of compressed gas in cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle (Mode 1.)
7835-P	DOT-E 7835	Airweld Inc., Farmingdale, NY	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to exemption 7835. (Mode 1.)
7915-X	DOT-E 7915	U.S. Department of Defense, Falls Church, VA	49 CFR 173.93(b)	To authorize transport of certain propellant explosives in water in DOT Specification MC-307 or MC-312 cargo tanks. (Mode 1.)
7943-X	DOT-E 7943	Grow Group, Inc., Montebello, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1)	To authorize shipment of corrosive liquids in one or two one-gallon polyethylene containers packed in fiberboard boxes, complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7963-X	DOT-E 7963	Stauffer Chemical Co., Westport, CT	49 CFR 173.245, 173.356, 173.360(a)(5)	To authorize transport of perchloromethyl mercaptan and thiophene-2-acetyl chloride, in metal tanks constructed in accordance with DOT Specification 5t, with certain exceptions. (Modes 1, 2, and 3.)
8248-X	DOT-E 8248	AT&T Technologies, Inc., Greensboro, NC	49 CFR 173.245, 173.247, 173.271, 178.170	To authorize shipment of various corrosive liquids in a modified DOT Specification 15C wooden box containing four compartments capable of transporting four (4) glass bottles, each secured in an aluminum shipping canister. (Mode 1.)
8354-X	DOT-E 8354	VTG, Hamburg, West Germany	49 CFR 173.123, 173.315	To authorize butane-1 and vinyl chloride, classed as flammable gas, as additional commodities. (Modes 1, 2, and 3.)
8465-X	DOT-E 8465	C-I-L, Inc., Brampton, Ontario, Canada, PA	49 CFR 173.182(b)(6)(i), 173.234, 178.241	To authorize manufacture, marking and sale of non-DOT specification plastic bags (comparable to a DOT Specification 44p), for shipment of ammonium nitrate fertilizers and sodium nitrite mixtures. (Modes 1, 2, and 3.)
8465-X	DOT-E 8465	Chase Bag Co., Greenwich, CT	49 CFR 173.182(b)(6)(i), 173.234, 178.241	To authorize manufacture, marking and sale of non-DOT specification plastic bags (comparable to a DOT Specification 44p), for shipment of ammonium nitrate fertilizers and sodium nitrite mixtures. (Modes 1, 2, and 3.)
8539-X	DOT-E 8539	Aero Taxi-Rockford, Inc., Rockford, IL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B	To authorize pentaerythrite tetranitrate, Class A explosive, as an additional explosive for shipment in accordance with the provisions of DOT-6658. (Mode 5.)
8602-X	DOT-E 8602	Minnesota Valley Engineering, Inc., New Prague, MN	49 CFR 173.320	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks, for shipment of nonflammable gases. (Mode 3.)
8602-X	DOT-E 8602	Minnesota Valley Engineering, Inc., New Prague, MN	49 CFR 173.320	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks, for shipment of nonflammable gases. (Mode 3.)
8814-X	DOT-E 8814	Structural Composites Industries, Inc., Pomona, CA	49 CFR 173.302(a)(1), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, and 4.)
8837-X	DOR-E 8837	Fabricated Metals, Inc., San Leandro, CA	49 CFR 173.245(a)(38), 173.256(b)(1), 173.263(a)(8), 173.277(c)	To authorize manufacture, marking and sale of non-DOT specification steel jacketed polyethylene tanks, for transportation of certain corrosive liquids. (Modes 1, 2, and 3.)
8839-X	DOT-E 8839	Poly Processing Co., Inc., Monroe, LA	49 CFR 172.101, 173.114a(h)(3), 173.266, 173.268, 176.415, 176.83, 178.19, Part 173, Subpart D, F	To authorize shipment of 10% nitric acid solution, classed as oxidizer, in non-DOT specification polyethylene portable tanks. (Modes 1, 2, and 3.)
8888-X	DOT-E 8888	Nalco Chemical Co., Naperville, IL	49 CFR 172.101 Column 6(b), 173.119, 173.245(a)(17), 175.30	To authorize shipment of compound cleaning liquid, in drums having a capacity exceeding the net quantity limitations for cargo only aircraft. (Mode 4.)
8942-X	DOT-E 8942	Poly Processing Co., Inc., Monroe, LA	49 CFR 173.114a(h)(3), 173.266, 173.268, 176.415, 176.83, 178.19, 178.251, 178.253, Part 173, Subpart D, F	To authorize shipment of 10% nitric acid solution, classed as oxidizer, in non-DOT specification polyethylene portable tanks. (Modes 1, 2, and 3.)
9047-X	DOT-E 9047	Union Carbide Corp., Danbury, CT	49 CFR 173.124(a)(2), 173.124(a)(4), 175.3	To authorize shipment of ethylene oxide in prescribed DOT cylinders or drums equipped with brass valves. (Modes 1, 2, 3, 4, and 5.)
9066-P	DOT-E 9066	Allied-Signal Inc., Bendix Safety Restraints Division, Mt. Clemens, MI	49 CFR 173.154, 175.3	To become a party to exemption 9066 (Modes 1, 2, 3, and 4.)
9072-X	DOT-E 9072	Morton Thiokol, Inc., Brigham City, UT	49 CFR 173.92	To authorize shipment of additional rocket motors, Class B explosives, in an alternative non-DOT packaging design. (Mode 1.)
9114-X	DOT-E 9114	AT&T Technologies, Inc., Lee's Summit, MO	49 CFR 172.203(d)(1)(ii), 172.203(1)(iii), 172.403(b), 172.403(g)(2), 173.415(a)	To authorize AT&T Technologies to provide packaging to be used for highway transport to the Kansas City Works of electron tubes containing small amounts of radioactive material (85Kr and 226Ra) without specific determination of total activity or Transport Index for the package. (Mode 1.)
9144-X	DOT-E 9144	Cajun Bag & Supply Co., Crowley, LA	49 CFR 173.154, 173.164, 173.178, 173.182, 173.234, 173.245b	To renew and to authorize cargo vessel as additional mode of transportation. (Modes 1, 2, and 3.)
9150-X	DOT-E 9150	Hoover Group, Inc., Beatrice, NE	49 CFR 173.118a, 173.119, 173.256, 173.266, 176.340, 178.19, 178.253, Part 173, Subpart F	To authorize manufacture, marking and sale of non-DOT specification rotationally molded, cross-linked polyethylene portable tanks with bottom outlet, for shipment of corrosive and flammable liquids or an oxidizer. (Modes 1, 2, and 3.)
9184-X	DOT-E 9184	Fabricated Metals, Inc., San Leandro, CA	49 CFR 173.119(b)(6)	To authorize manufacture, marking and sale of a non-DOT specification steel portable tank of 345 gallon capacity, with removable head, for shipment of waste paint and waste paint sludge (Modes 1, and 2.)
9198-X	DOT-E 9198	U.S. Department of the Interior, Boise, ID	49 CFR 175.5(a)(2)	To authorize exception from 49 CFR 175.5(a)(2) whereby DOI, and other government agencies under contract to DOI, may use aircraft which are under exclusive direction and control of DOI for periods of less than 90 days. (Mode 4.)
9256-X	DOT-E 9256	U.S. Department of Defense, Falls Church, VA	49 CFR 146.20-13, 173.86, 175.30, Part 107, Subpart B	To ship new explosives under a tentative hazard classification to test facilities without marking them as laboratory samples and without being accompanied by a qualified explosives handler. (Modes 1, 2, 3, and 4.)
9281-X	DOT-E 9281	GOTEX, Inc., Cleburne, TX	49 CFR 172.101, 173.100	To authorize DOT Specification 12H-65, 23F-65 and 23H-65 fiberboard boxes as alternate packaging for certain Class C explosives. (Modes 1, 2, 3, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
9346-X	DOT-E 9346	Pennzoil Products Co., Rouseville, PA	49 CFR 174.67(a)(2)	To authorize setting of the brakes and blocking the wheels of the first and last tank cars on up to a twelve tank car assembly, instead of each individual car, when engaged in unloading crude oil and petroleum (Mode 2.)
9363-X	DOT-E 9363	Columbia Astrophysics Laboratory, New York, NY.	49 CFR 173.302(a)(1)	To authorize use of non-DOT specification cylinders manufactured from monel to DOT Specification 3A with certain exceptions, for transportation of certain flammable and nonflammable gases. (Mode 1.)
9393-X	DOT-E 9393	Sexton Can Co., Inc., Cambridge, MA	49 CFR 173.304(a), 178.65	To authorize manufacture, marking and sell non-DOT specification nonreusable steel containers, patterned after DOT Specification 2Q, for shipment of (mono) chlorodifluoromethane (R-22) classed as a nonflammable gas. (Mode 1.)
9400-X	DOT-E 9400	Poly Processing Co., Inc., Monroe, LA	49 CFR 173.114a(h)(3), 173.119, 173.125, 173.268, 176.415, 176.83, 178.19, 178.253 Part 173, Subpart F.	To authorize shipment of 10% nitric acid solution, classed as oxidizer, in non-DOT specification polyethylene portable tanks. (Modes 1, 2, and 3.)
9478-X	DOT-E 9478	Systron Donner Corp., Concord, CA	49 CFR 173.304, 175.3, 178.46	To authorize manufacturer, marking and sale of non-DOT specification cylinders conforming with DOT Specification 3AL in shape and for certain tests for shipment of nonflammable gases. (Modes 1, 2, and 4.)
9490-X	DOT-E 9490	National Refrigerants, Inc., Radnor, PA	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for shipment of flammable and nonflammable liquefied compressed gases. (Modes 1, 2, and 3.)
9498-P 9530-X	DOT-E 9498 DOT-E 9530	Rentokil Inc., Norcross, GA National Refrigerants, Inc., Radnor, PA	49 CFR 173.367, 173.370 49 CFR 173.315, 178.245	To become a party to exemption 9498 (Modes 1, 2, and 3.) To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of nonflammable liquefied compressed gases. (Modes 1, 2, and 3.)
9552-X	DOT-P 9552	IRECO Inc., Salt Lake City, UT	49 CFR 178.218-11	To authorize testing of DOT Specification 23G cylindrical fiberboard box once a year instead of once every six months. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9648-N	DOT-E 9648	Morton Thiokol, Inc., Elkton, MD	49 CFR 173.92(c)	To authorize transport of a rocket motor with igniter installed in a non-DOT specification wooden box. (Modes 1, 3, and 4.)
9781-N	DOT-E 9781	The Chlorine Institute, Inc., Washington, DC.	49 CFR 173.304(a)(2), 173.34(d), (e).	To authorize use of a non-DOT specification full opening head, steel salvage cylinder for overpacking damaged or leaking chlorine cylinders. (Mode 1.)
9828-N	DOT-E 9828	Mobay Corp., Kansas City, MO	49 CFR 173.365(a)(7)	To authorize shipment of azinphos methyl, mixture, solid, classed as Poison B, in water soluble packets (PVA) inside lined chipboard cartons overpacked in DOT Specification 12B65 fiberboard boxes. (Modes 1 and 2.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 4990-X	DOT-E 4990	Joseph E. Seagram & Sons, Inc., New York, NY.	49 CFR 173.124	To authorize use of AAR Specification 206W tank car, for transportation of a certain flammable liquid. (Mode 2.)
EE 9796-X	DOT-E 9796	Heavylift Cargo Airlines Ltd., Stansted Essex, England.	49 CFR 172.101	To authorize a one-time shipment of rocket ammunition with explosive projectile. (Mode 4.)
EE 9855-X	DOT-E 9855	Korean Air Lines Co., Ltd., Los Angeles, CA.	49 CFR 172.101, column 6(b), 175.30	To authorize shipment of certain Class A, B and C explosives which are forbidden for transportation by air or are in quantities greater than prescribed for air transportation. (Mode 4.)
EE 9878-N	DOT-E 9878	Tennessee Eastman Co., Kingsport, TN	49 CFR 173.365(a)(2)	To authorize shipment of a solid waste, classed as a Class B poison, contained in approximately 300 DOT Specification 55-gallon capacity 17C drums. (Mode 1.)
EE 9879-N	DOT-E 9879	Comet Rice, Inc., Houston, TX	49 CFR 173.315	To authorize a one-time shipment of sulfur dioxide for disposal in a non-DOT specification steel portable tank. (Mode 1.)

Denials

7052-X Request by Moli Energy, Limited Burnaby, B.C., Canada to authorize shipment of secondary (rechargeable) lithium batteries containing cells and series of cells connected in parallel without diodes denied November 2, 1987.

9600-N Request by Western Executive Air Santa Ana, CA to authorize transport of various Class A, B and C explosives by cargo-aircraft only denied November 6, 1987.

9687-N Request by American Cyanamid Company Wayne, NJ to install and use modified safety vents on DOT Specification 111A100W2 tank car tanks in sulfuric acid service denied November 2, 1987.

Issued in Washington, DC, on January 7, 1988.

J. J. Suzanne Hedgepeth,
Chief, Exemptions Branch, Office of
Hazardous Materials Transportation.
[FR Doc. 88-1237 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. 87-3W; Notice 2]

Transportation of Natural and Other Gas by Pipeline; Grant of Waiver

The Southern Natural Gas Company (Southern) had petitioned the Office of Pipeline Safety for a waiver from compliance with 49 CFR 192.553(d), which prohibits, when uprating a pipeline, the establishment of a maximum allowable operating pressure (MAOP) greater than would be permitted for a new pipeline segment constructed of the same materials in the

same location. Anticipating increased demand for gas, Southern requested a waiver to permit the MAOP of 7 pipeline segments to be uprated from 500 to 650 psig. The seven segments are all in Class 3 locations, which are generally characterized as areas with 46 or more occupied buildings per mile of pipeline (see § 192.5). The segments are located in St. Clair and Talladega Counties of Alabama, and they are shown on vicinity plat drawing MD-472-1, site plat drawing MD-472, and class location surveys O-NSE-34, 35, and 36, which are available in the docket.

The segments are part of Southern's 24-inch Second North Main Line. Five of the segments were constructed in 1953; the other two were constructed in 1963. The MAOP's on the Second North Main Line are 750 and 650 psig, moving west to east (MP 0.0 to MP 231.0) and 500 psig in the remaining 6 miles. They were established in 1970 under § 192.619(a)(3) as the highest actual operating pressure in the preceding five years. The segments in question are located in the last six miles (MP 231.795 to MP 236.646) and comprise a total of 3.4 miles. The construction of these segments is substantially the same as the rest of the Second North Main Line, which operates at a higher MAOP.

In response to this petition, the Office of Pipeline Safety (OPS) issued a Notice of Petition for Waiver, inviting interested parties to comment (Notice 1) (52 FR 32986; September 1, 1987). In that notice, OPS explained why granting a waiver from § 192.553(d) to permit uprating of the seven specified pipeline segments would not affect safety.

Comments were received from three pipeline operators and one industry organization, each of whom endorsed the petition and recommended granting the waiver.

In accordance of the foregoing, OPS, by this order, finds that compliance with § 192.553(d) is unnecessary for the reasons explained in Notice 1, and that the requested waiver would not be inconsistent with pipeline safety. Accordingly, Southern Natural Gas Company is granted a waiver from compliance with § 192.553(d) regarding the seven segments of the Second North Main Line described above for the purpose of uprating to 650 psig.

(49 U.S.C. 1672(d); 49 CFR 1.53, and Appendix A of Part 106)

Issued in Washington, DC, on January 19, 1988.

Richard L. Beam,

Director, Office of Pipeline Safety.

[FR Doc. 88-1324 Filed 1-21-88; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

Date: January 15, 1988.

The Department of the Treasury has submitted the following public information collection requirement(s) to the Office of Management and Budget (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 to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New

Form Number: 8703

Type of Review: New Collection

Title: Annual Certification by Operator of a Qualified Residential Rental Project

Description: Operators of qualified residential projects will use this form to certify annually that their projects meet the requirements of Internal Revenue Code section 142(d). Operators are required to file this certification under section 142(d)(7).

Respondents: Businesses or other for-profit

Estimated Burden: 3,277 hours

OMB Number: 1545-0916

Form Number: None

Type of Review: Extension

Title: Effective Dates and Other Issues Arising Under the Employee Benefit Provisions of the Tax Reform Act of 1984

Description: These temporary regulations provide rules relating to effective dates and other issues arising under sections 91, 223 and 511-561 of the Tax Reform Act of 1984.

Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions

Estimated Burden: 6,450 hours

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, 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

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 88-1211 Filed 1-21-88; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

Privacy Act of 1974; Routine Uses

ACTION: Notice of new routine uses for the systems of records Treasury/BPD.002—United States Savings-Type Securities, and Treasury/BPD.003—United States Securities (Other than Savings-Type Securities).

SUMMARY: The Bureau of the Public Debt, Department of the Treasury, proposes to add two new routine uses by amendment to two of its Privacy Act systems of records: Treasury/BPD.002—United States Savings-Type Securities, last published on July 25, 1985, at 50 FR 30387; and Treasury/BPD.003—United States Securities (Other than Savings-Type Securities), last published on June 10, 1986, at 51 FR 21047.

SUPPLEMENTARY INFORMATION: The Bureau of the Public Debt has determined that it should be prepared to undertake two kinds of computer matching. The first kind of matching will enable the Bureau to participate in the Government-wide Federal Salary Offset Program. Under this program, the Bureau would furnish data on individuals who are delinquent in debts arising out of transactions in Treasury securities to a central facility at the Department of Defense. The facility would computer match the data against active and retired civilian and military employees' files of the Office of Personnel Management, the Department of Defense, other Executive, Legislative and Judicial agencies, and the U.S. Postal Service. The Debt Collection Act of 1982 provides authority to offset payments made to current and former Federal employees who are delinquent in debts owed to the Federal Government. Government regulations issued under that Act provide for strict due process procedures that must be followed prior to making any offset against current payments.

The second routine use is proposed to enable the Bureau to participate with other Federal agencies in efforts to assure the integrity of benefits programs. At the request of such agencies, the Bureau would undertake computer matches of its records on the ownership of Treasury marketable securities and savings bonds with records maintained by other agencies for recipients of Federal benefits programs where eligibility for the programs requires a limit on assets that may be held by or available to the benefit recipient. Once this routine use is in effect, the Bureau would enter into written agreements under current Office

of Management and Budget guidelines before any disclosure of information would be made. Additionally, before the Bureau performed any such match, it would publish the appropriate notice in the *Federal Register*. The notice would describe the limitations on the use of any information disclosed as a result of that particular match.

DATE: The proposed new routine uses will become effective, without further notice on February 22, 1988, unless comments dictate otherwise.

ADDRESS: Comments may be sent to: Information Officer, Room 553, E Street Building, Bureau of the Public Debt, Washington, DC 20239-0001.

FOR FURTHER INFORMATION CONTACT: Volney M. Taylor, Room 553, E Street Building, Bureau of the Public Debt, Washington, DC 20239-0001, (202) 376-4307.

Dated: January 14, 1988.

Jill E. Kent,

Acting Assistant Secretary of the Treasury (Management).

Treasury/BPD.002

SYSTEM NAME:

United States Savings-Type Securities—Treasury/BPD.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Description of the change: Remove the "and" following the semicolon at the end of item (12), remove the period at the end of item (13) and substitute a semicolon, and add the following new routine uses:

(14) To disclose through computer matching information on individuals owing debts to the Bureau of the Public Debt to other Federal agencies for the purpose of determining whether the debtor is a Federal employee or retiree receiving payments which may be used to collect the debt through administrative or salary offset; and (15) to disclose through computer matching information on holdings of savings-type securities to requesting Federal agencies under approved agreements limiting the information to that which is relevant in making a determination of eligibility for

Federal benefits administered by those agencies.

Treasury/BPD.003

SYSTEM NAME:

United States Securities (Other than Savings-Type Securities)—Treasury/BPD.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Description of the change: Remove the "and" following the semicolon at the end of item (12), remove the period at the end of item (13) and substitute a semicolon, and add the following new routine uses:

(14) To disclose through computer matching information on individuals owing debts to the Bureau of the Public Debt to other Federal agencies for the purpose of determining whether the debtor is a Federal employee or retiree receiving payments which may be used to collect the debt through administrative or salary offset; and (15) to disclose through computer matching information on holdings of Treasury securities to requesting Federal agencies under approved agreements limiting the information to that which is relevant in making a determination of eligibility for Federal benefits administered by those agencies.

[FR Doc. 88-1309 Filed 1-21-88; 8:45 pm]

BILLING CODE 4810-40-M

Internal Revenue Service

[Delegation Order No. 220 (Rev. 1)]

Delegation of Authority; Director, Disclosure Litigation Division

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority (revised).

SUMMARY: Delegation of Authority to Claim Executive Privilege in Matters before the United States Claims Court, the United States Tax Court, and other United States Federal Courts. The text

of the revised delegation order appears below.

EFFECTIVE DATE: December 20, 1987.

FOR FURTHER INFORMATION CONTACT: Margo L. Stevens, CC:D, Room 3560, 1111 Constitution Avenue NW., Washington, DC 20224, (202) 566-3074 (not a toll-free telephone number).

Martha Seeman,

Chief, Information and Productivity Improvement Branch.

Delegation Order No. 220 (Rev. 1)

Effective Date: December 20, 1987.

Authority to Claim Executive Privilege in Matters Before the Claims Court, the Tax Court and other Federal Courts

The authority vested in the Commissioner of Internal Revenue by Treasury Department Order 150-10 to claim executive privilege with respect to Internal Revenue Service records and information in matters before the United States Claims Court, the United States Tax Court, and other Federal Courts is hereby delegated, through the Chief Counsel and the Associate Chief Counsel (Litigation), to the Director, Disclosure Litigation Division. In the absence of or at the request of the Director, the Assistant Director, may exercise this authority in his/her name for the Director. This authority may not be redelegated.

The Claims Court and certain other federal courts only recognize agency claims of executive privilege as the sole basis for protecting internal or inter-agency records that reflect recommendations, advisory opinions, and deliberations, comprising the process by which governmental decisions and policies are formulated. Executive privilege does not encompass those records whose disclosure would harm our national security or the conduct of international relations. These records fall within the government's states secrets privilege which is not delegated herein. With respect to these records, the Commissioner of Internal Revenue will claim the states secrets privilege.

Executive privilege may only be claimed for those Internal Revenue Service records and information that are predecisional and deliberative, the

disclosure of which would significantly impede or nullify Internal Revenue Service actions in carrying out a responsibility or function, or would constitute an unwarranted invasion of personal privacy. Prior to asserting the claim of executive privilege with respect to the records described herein, coordination with the interested function(s) (including but not limited to the office of the Commissioner of Internal Revenue) shall be affected.

Dated: December 20, 1987.

Approved.

Lawrence Gibbs,
Commissioner.

[FR Doc. 88-1282 Filed 1-21-88; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register

Vol. 53, No. 14

Friday, January 22, 1988

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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Tuesday, January 26, 1988.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. Compliance Status Report

The staff will brief the Commission on a compliance status report.

2. Enforcement Matter OS #3222

The staff will brief the Commission on Enforcement Matter OS #3222.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800. January 19, 1988.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 88-1375 Filed 1-20-88; 12:54 pm]

BILLING CODE 6355-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, January 27, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Issues related to the Board's capital adequacy guidelines. (Proposed earlier for public comment; Docket No. R-0567)

2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: January 20, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-1343 Filed 1-20-88; 10:08 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:00 a.m., Wednesday, January 27, 1988, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 20, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-1344 Filed 1-20-88; 10:08 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Monday, January 25, 1988.

PLACE: Room 432, Federal Trade Commission Building 6th Street and Pennsylvania Avenue NW., Washington, DC 20580

STATUS: Open.

MATTER TO BE CONSIDERED:

Budget Review Session.

CONTACT PERSON FOR MORE

INFORMATION: Susan B. Ticknor, Office

of Public Affairs: (202) 326-2179; Recorded Message: (202) 326-2711.

Emily H. Rock,

Secretary.

[FR Doc. 88-1390 Filed 1-20-88; 2:54 pm]

BILLING CODE 6750-01-M

INTER-AMERICAN FOUNDATION BOARD Meeting

TIME AND DATE:

February 1, 1988—6:00-9:00 p.m.

February 2, 1988—9:00 a.m.—12:00 noon

PLACE: 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

STATUS: Open except for the portion to be held as closed session to discuss personnel matters as defined in § 1004.4(b) of 22 CFR Chapter 10.

MATTERS TO BE CONSIDERED:

February 1, 1988

1. The Chairman's Report
2. The President's Report
3. Approval of the Minutes of the Meeting of September 17-18, 1987
4. Closed Session

February 2, 1988

5. Continuation of Closed Session if necessary
6. Report of the Committees of the Board
7. Other Business

CONTACT PERSONS FOR MORE

INFORMATION: Charles M. Berk, Secretary to the Board of Directors, (703) 841-3812

Date: January 19, 1988.

Charles M. Berk,

Sunshine Act Officer.

[FR Doc. 88-1334 Filed 1-19-88; 5:02 pm]

BILLING CODE 7025-01-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Special Meeting

TIME AND DATE: 2:00 p.m., Wednesday, January 27, 1988 (postponed from December 2, 1987).

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street NW., suite 800, Washington, DC 20005.

STATUS: The portion of this meeting addressing personnel matters may be closed; the rest of the meeting will be open.

CONTACT PERSON FOR MORE

INFORMATION: Bonnie Nance Frazier, Communications Director, 376-2623.

AGENDA:

- I. Call to Order and remarks of the Chairman
- II. Approval of minutes, October 6, 1987
- III. Executive Director's activity report
- IV. Personnel Committee report
 - Recommendation on officers' performance awards
- V. Audit Committee report
- VI. Treasurer's Report
- VII. Resolution: Tenth annual meeting
- VIII. Resolution: Regular meetings of the board

Carol J. McCabe,

Secretary.

[FR Doc. 88-1361 Filed 1-20-88; 11:29 am]

BILLING CODE 7570-01-M

POSTAL RATE COMMISSION

TIME AND DATE: 9:30 a.m. and 2:00 p.m. on January 22, 1988.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Two meetings to discuss evidence in Docket No. R87-1.

CONTACT PERSON FOR MORE

INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission Room 300, 1333 H Street NW., Washington, DC 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 88-1358 Filed 1-20-88; 10:50 am]

BILLING CODE 7715-01-M

POSTAL SERVICE BOARD OF GOVERNORS

Vote To Close Meeting

By telephone vote on January 13 and 15, 1988, a majority of the members contacted and voting, the Board of Governors voted to close to public observation its meeting scheduled for February 1, 1988, at United States Postal Service headquarters, 475 L'Enfant Plaza SW., Washington, DC. The meeting will involve consideration of a management proposal for a new major postal facility in Westchester, New York.

The meeting is expected to be attended by the following persons: Governors Griesemer, Hall, McConnell, Nevin, Pace, Peters, Ryan and Setrakian; Postmaster General Tisch; Deputy Postmaster General Coughlin; Secretary for the Board Harris; and General Counsel Cox.

The Board determined that, pursuant to section 552b(c)(9)(B) of Title 5, United States Code, and § 7.3(i) of Title 39, Code of Federal Regulations, the discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)], because it is likely to disclose information, the premature disclosure of which would likely significantly frustrate implementation of a proposed procurement action.

In accordance with section 552b(f)(1) of Title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation, pursuant to section 552b(c)(9)(B) of Title 5, United States

Code, and § 7.3(i) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary for the Board, David F. Harris, at (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 88-1350 Filed 1-20-88; 10:27 am]

BILLING CODE 7710-12-M

UNITED STATES INSTITUTE OF PEACE

TIME AND DATE: 9:00 a.m.-5:00 p.m., January 28, 1988.

PLACE: National Trust for Historic Preservation, 1785 Massachusetts Avenue NW., Washington, DC 20036.

STATUS: Open.

PURPOSE AND AGENDA: The sixth colloquium of the intellectual mapping project focusing on the role of international organizations and third party dispute settlement in securing and maintaining peace among nations: problems and prospects. Invited participants include Sir Brian Urquhart, Dr. Harlan Cleveland, Amb. Tommy T.B. Koh, Prof. Lincoln Bloomfield, Prof. Jeffrey Rubin, William L. Ury, Esq., Richard Bilder, Esq., and Michael Reisman, Esq.

CONTACT: Richard N. Smith (202) 457-1700.

Dated: January 20, 1988.

Samuel W. Lewis,

President, United States Institute of Peace.

[FR Doc. 88-1359 Filed 1-20-88; 11:04 am]

BILLING CODE 3155-01-M

Corrections

Federal Register

Vol. 53, No. 14

Friday, January 22, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, 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.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87E-0365]

Determination of Regulatory Review Period for Purposes of Patent Extension; Hytrin

Correction

In notice document 88-269 beginning on page 572 in the issue of Friday, January 8, 1988, make the following corrections:

1. On page 572, in the second column, the subject heading should read as set forth above.
2. On the same page, in the same column, under **SUMMARY**, in the fourth

line, "published" should read "publishing".

3. On the same page, in the third column, in the fourth line from the top, "the" should read "that".

4. On the same page, in the same column, in the second complete paragraph, in the 3rd line, "hydrochloride" was misspelled, and in the 21st line, "permit" should read "permitted".

5. On page 573, in the first column, in the third line, "claim" should read "claimed".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87D-0110]

Medical Devices; Revision of Compliance Policy Guide Regarding Condoms; Defects—Criteria for Direct Reference Seizure; Availability

Correction

In notice document 88-271 appearing on page 573 in the issue of Friday, January 8, 1988, make the following correction:

In the second column, under **FOR FURTHER INFORMATION CONTACT**, in the third line, "8727" should read "8757".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Voting Members on Public Advisory Committees or Panels

Correction

In notice document 88-206 beginning on page 447 in the issue of Thursday, January 7, 1988, make the following correction:

On page 447, in the second column, under **ADDRESSES**, in the 11th line, the name should read "Sharon Kalokerinos".

BILLING CODE 1505-01-D

Federal Register

Friday
January 22, 1988

Part II

Environmental Protection Agency

**Drinking Water; Substitution of
Contaminants and Drinking Water Priority
List of Additional Substances Which May
Require Regulation Under the Safe
Drinking Water Act**

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL 3304-5]

Drinking Water; Substitution of Contaminants and Drinking Water Priority List of Additional Substances Which May Require Regulation Under the Safe Drinking Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of substituted contaminants and first Drinking Water Priority List.

SUMMARY: The Safe Drinking Water Act ("SDWA" or "Act") was amended in 1986 to require EPA to regulate 83 contaminants in drinking water by June, 1989. The SDWA allows EPA to substitute up to seven contaminants on the list of 83 contaminants if regulation of the substitutes is more likely to be protective of public health. The Act also requires EPA to establish a priority list of contaminants which may have any adverse effect on the health of persons and are known or anticipated to occur in public water systems and which may require regulation under the Act ("drinking water priority list"). In this notice, EPA is publishing the seven substituted contaminants and publishing the first drinking water priority list.

DATES: This notice is effective immediately.

ADDRESSES: References, supporting documentation, and comments received on the proposal are in the public docket. The docket clerk's office is located in the Criteria and Standards Division, Office of Drinking Water, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. The docket is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. Please call Ms. Pat Minami at 202-382-7575 for an appointment to inspect the docket. In addition, certain supporting documents cited in this notice will be available for inspection at the Drinking Water Branches in EPA's Regional Offices (see addresses below).

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, telephone (800) 426-4791, or (202) 382-5533 in the Washington, DC metropolitan area; or Arthur H. Perler, Chief, Science and Technology Branch, Criteria and Standards Division, Office of Drinking Water, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (202) 382-3022.

SUPPLEMENTARY INFORMATION:
I. Background

- II. Substitutes
 - A. Criteria Used to Select Substitute Contaminants
 - B. List of Contaminants Removed and Substituted
- III. Drinking Water Priority List
 - A. Contaminants Considered for the Drinking Water Priority List
 - B. Contaminants Considered for the Drinking Water Priority List but Deleted due to Lack of Exposure or Data Availability
 - 1. Exposure Potential and/or Physical-Chemical Properties
 - 2. Data availability
 - C. Contaminants Added to the Drinking Water Priority List
 - 1. Pesticides
 - 2. Additional Substances
 - D. First Drinking Water Priority List
 - E. First Drinking Water Priority Lists
- IV. References
- V. Other Requirements
 - A. Executive Order 12291
 - B. Regulatory Flexibility Act
 - C. Paperwork Reduction Act

EPA Regional Offices

- I. JFK Federal Bldg., Room 2203, Boston, MA 02203, Phone: (617) 853-3610, Jerome Healy
- II. 26 Federal Plaza, Room 824, New York, NY 10278, Phone: (212) 264-1800, Walter Andrews
- III. 841 Chestnut Street, Philadelphia, PA 19107, Phone: (215) 597-9873, Jon Capacasa
- IV. 345 Courtland Street, Atlanta, GA 30365, Phone: (404) 257-4450, Robert Jourdan
- V. 230 S. Dearborn Street, Chicago, IL 60604, Phone: (312) 353-2650, Joseph Harrison
- VI. Allied Bank Tower, Dallas, TX 75202, Phone: (214) 767-2656, James Graham
- VII. 726 Minnesota Ave., Kansas City, KS 66101, Phone: (913) 234-2815, Gerald R. Foree
- VIII. One Denver Place, 999 18th Street, Suite 300, Denver, CO 80202-2413, Phone: (303) 293-1424, Marc Alston
- IX. 215 Fremont Street, San Francisco, CA 94105, Phone: (415) 974-8076, William Thurston
- X. 1200 Sixth Avenue, Seattle, WA 98101, Phone: (206) 399-4092, Richard Thiel

Abbreviations Used in This Notice

- ANPRM: Advance Notice of Proposed Rulemaking
- BAT: Best Available Technology
- CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act (Superfund)
- CWSS: Community Water Supply Survey
- DWPL: Drinking Water Priority List
- GWSS: Ground Water Supply Survey

- MCL: Maximum Contaminant Level
- MCLG: Maximum Contaminant Level Goal
- MDL: Method Detection Limit
- NAS: National Academy of Sciences
- NIPDWR: National Interim Primary Drinking Water Regulation
- NIRS: National Inorganics and Radionuclides Survey
- NOAEL: No Observed Adverse Effect Level
- NOMS: National Organics Monitoring Survey
- NORS: National Organics Reconnaissance Survey
- NPDWR: National Primary Drinking Water Regulation (includes both Interim and Revised National Primary Drinking Water Regulations)
- NPL: National Priorities List (Superfund)
- NPS: National Pesticide Survey
- NSP: National Screening Program
- NTP: National Toxicology Program
- RMCL: Recommended Maximum Contaminant Level
- RWS: Rural Water Survey
- SDWA: The Safe Drinking Water Act, also referred to as "the Act," as amended in 1986
- SMCL: Secondary Maximum Contaminant Level
- SOC: Synthetic Organic Chemical
- VOC: Volatile Organic Chemical

I. Background

The Safe Drinking Water Act ("SDWA" or "Act") (42 U.S.C. 300f, *et seq.*) was passed in 1974. The Act required EPA to establish national interim primary drinking water regulations (NIPDWRs) that applied to public drinking water systems and that "specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons" [section 1401(1)]. The NIPDWRs were to be revised based upon a comprehensive assessment of potential adverse effects of contaminants in drinking water. In the course of developing the revised regulations, EPA was to publish recommended maximum contaminant levels (RMCLs).

The Act was amended in 1986. RMCLs were renamed "maximum contaminant level goals" (MCLGs) without changing the definition. The amended Act specifies a list of 83 specific drinking water contaminants for which EPA must publish MCLGs and promulgate National Primary Drinking Water Regulations (NPDWRs) on a specified schedule ("list of 83 contaminants"; see Appendix A) [section 1412(b)(1)].

Under the Act, EPA may make up to seven substitutions to the list of 83 contaminants [section 1412(b)(2)]. In

order to make substitutions to the list, the Administrator must determine (after notice and opportunity for comment) that "regulation of the substitutes * * * is more likely to be protective of public health (taking into account the schedule for regulation) * * * than regulation of the originally listed contaminants that would be removed from the list of 83 contaminants [*Id.*]."

The Act also requires EPA to publish a list of additional contaminants that are known or anticipated to occur in drinking water and which may require regulation under the Act ("drinking water priority list" or "DWPL") [section 1412(b)(3)]. EPA must publish the first list by January 1, 1988, and subsequent lists every three years thereafter [*Id.*]. EPA must propose NPDWRs for at least 25 contaminants on the DWPL within 24 months of publication of each triennial list, and promulgate 25 NPDWRs within 36 months of publication of each triennial list [*Id.*]. In selecting contaminants for the list, EPA must consider, at a minimum, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or "Superfund") and pesticides registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) [section 1412(b)(3)(B)]. As required by the Act, EPA formed an advisory group to assist in developing the DWPL. This group is to include, but is not limited to, participants from the National Toxicology Program and the Environmental Protection Agency's Offices of Drinking Water, Pesticides and Toxic Substances, Ground Water, and Solid Waste and Emergency Response, and other offices deemed appropriate by the Administrator [*Id.*]. As required by the Act, EPA proposed the list of substitutes (52 FR 25720, July 8, 1987). EPA published a draft DWPL for comment in the same notice.

This notice publishes the final list of substitute contaminants along with the list of contaminants being replaced and responses to significant comments received [section 1412(b)(2)(B)]. Under the Act, EPA's selection of substitutions to the list of 83 contaminants is not subject to judicial review [section 1412(b)(2)(D)]. This notice also publishes the final DWPL [section 1412(b)(3)(A)].

EPA held a public hearing on August 4, 1987 in Washington, DC. In addition, EPA received 22 written comments. The comments received are available in the public docket. Summaries of the significant comments and the responses

are presented in the text below. Additional responses are in the record.

EPA believes that, with the promulgation of regulations for the SDWA list of 83 contaminants (with the seven substitutions), many of the significant drinking water contaminants will have been regulated. With few exceptions, the remaining anticipated drinking water problems are primarily in the area of disinfection by-products and pesticides. The triennial DWPL will be the primary vehicle by which EPA considers substances for future regulation (as noted above, MCLGs and NPDWRs are to be set for at least 25 contaminants from the list every three years).

II. Substitutes

A. Criteria Used to Select Substitute Contaminants

The criteria which EPA used to select substitute contaminants were described in detail in the earlier notice (52 FR 25720). As noted above, the 1986 amendments to the SDWA allow for substitutions to the list of 83 contaminants to be regulated if the Administrator determines that regulation of the substitutes is more likely to be protective of public health than regulation of the contaminants being replaced. To make this determination, EPA considered several factors associated with both the contaminants to be substituted and the contaminants being replaced on the list. The most important of these factors were the severity of the human health hazards posed by the contaminants and the occurrence or potential for occurrence of the contaminants in drinking water. For each contaminant, EPA specifically considered the following:

- Are there sufficient health effects data upon which to select an MCLG?
- Are there potential adverse health effects from exposure to the contaminant via ingestion?
- Does the contaminant occur in drinking water? Has the contaminant been widely detected in significant frequencies?
- If data on the frequency and nature of contaminants are limited, is there a significant potential for drinking water contamination?

Each of these factors is discussed in more detail in the earlier notice (52 FR 25720).

EPA believes it is not appropriate to use any specific formula to apply selection criteria because of the many variables associated with contaminants in drinking water. Given the variability associated with human health and

exposure aspects of drinking water contaminants and the directives of the SDWA, EPA believes the decision criteria must remain flexible, so that a case-by-case decision whether regulation is appropriate can be made for each contaminant.

In reviewing contaminants for possible removal from the list of 83 contaminants, EPA first considered the available health effects data and data on occurrence or potential occurrence in drinking water. The health information necessary for development of national primary drinking water regulations is normally either adequate human data or data from an adequate subchronic or chronic toxicity study in an appropriate test animal. For each contaminant reviewed, if such data were available and they suggested that the contaminant would not be expected to cause any adverse health effects, the contaminant was a candidate for replacement. If no such data were available and none were expected to be available in time to be considered in developing regulations, the contaminant was also considered as a candidate for replacement. In addition, EPA considered contaminants for removal from the list if the available monitoring data indicated little or no occurrence of that contaminant in drinking water supplies and little occurrence in drinking water was anticipated. All of the contaminants removed from the list have one or more of these characteristics.

EPA evaluated candidates to be substituted onto the list using the same criteria applied to the candidates for removal from the list. Adequate health effects and data on occurrence or anticipated occurrence are available to demonstrate potential public health risk for all of the contaminants EPA is substituting on the list. In fact, EPA has already proposed MCLGs for all of the contaminants proposed for substitution (50 FR 46938, November 13, 1985).

The following is a summary of the significant public comments EPA received on the contaminants proposed to be removed and the contaminants to be substituted on the list of 83 contaminants and EPA's final action in this notice.

Contaminants EPA Proposed to Remove

This section addresses the contaminants EPA proposed to remove from the list of 83 contaminants.

Zinc. Three commenters supported EPA's proposed removal of zinc from the list of contaminants to be regulated; no commenters objected.

Response. No response is necessary. EPA is removing zinc from the list of 83 contaminants.

Silver. Four commenters discussed EPA's proposed removal of silver from the list. Three commenters supported the Agency's proposal to remove silver from the list. One commenter objected to this proposal, stating that silver is associated with multiple toxic effects. In addition, this commenter objected to EPA's categorization of argyria as not being an adverse health effect.

Response. While it is true that effects from silver other than argyria have been observed in animal studies, these adverse effects, such as neurotoxicity, kidney damage, cardiotoxicity, and death, occur at extremely high doses which would not be expected to occur from drinking water exposure. EPA, as stated in the proposal, believes that argyria (a discoloration of the skin associated with more realistic doses) is not as adverse health effect since it does not impair functioning of the body or cause other physiological problems. In addition, there are no known cases of argyria due to exposure to silver through drinking water. Therefore, EPA is removing silver from the list of 83 contaminants.

Aluminum. Two commenters presented information concerning aluminum. One commenter agreed with EPA that it is unlikely that aluminum in drinking water will cause health problems. The other commenter thought that there are sufficient data to indicate that aluminum poses an adverse health effect and that it should be regulated at this time. This commenter stated that there is evidence from both human and animal studies that aluminum is associated with a variety of central nervous systems (CNS) disorders.

Response. While EPA acknowledges that it has been suggested that aluminum may be associated with CNS disorders, the data do not indicate a cause-effect relationship. Exposure to aluminum in water is very small (approximately 1 percent of total human exposure), and there is no evidence at this time that aluminum ingested in water poses a health threat. Therefore, EPA is removing aluminum from the list of 83 contaminants. However, EPA is continuing research on the health effects of aluminum, including participation in international studies, and has placed it on the first DWPL (see below).

Sodium. Five commenters discussed EPA's proposed removal of sodium from the list. Four commenters thought that the Agency's decision to remove sodium from the list was appropriate. One commenter disagreed with the proposal, however, stating that there is a large

body of studies which support a correlation between increased dietary sodium intake and elevated blood pressure. This commenter stated that given that such a large percentage of Americans suffer from hypertension and that so many of the nation's drinking water supplies have levels of sodium that contribute to the problem, EPA should not remove sodium from the list of contaminants for regulation.

Response. There is a significant body of information on the relationship between total sodium intake and hypertension for certain individuals. Drinking water supplies can contain sodium at varying levels, with the National Inorganics and Radionuclides Survey (NIRS) showing a median level of 16.6 mg/L. However, the vast majority of sodium intake comes from other sources in the diet. The typical American diet contains several thousand milligrams per day of sodium, and the contribution from drinking water is unlikely to exceed a few percent of that total intake. To assist those who, for medical reasons, require a restricted-sodium diet, EPA recommends a sodium limit in drinking water of 20 mg/L (45 FR 57332, August 27, 1980). For persons on the most restrictive sodium diet, 20 mg/L would likely represent less than 10 percent of their total recommended sodium intake, approximately 400 mg/day (American Heart Association, see 50 FR 46980, August 27, 1980). There is currently an EPA regulation requiring all public water supplies to monitor the sodium levels in their drinking water and to report the level to local health authorities (40 CFR 141.41). Thus, physicians treating individuals on sodium restricted diets may determine the sodium levels in drinking water and advise their patients accordingly. The patients may then adjust their total sodium intake accordingly.

Regarding the relationship between sodium in drinking water and elevated blood pressure, there is a large amount of epidemiologic data. Most of this data consists of studies on school-age children. Based on this data, there is no compelling evidence that sodium levels up to several hundred mg/L significantly affect the blood pressure on school-age children. In discussing the possible relationship of sodium in drinking water to blood pressure, Colditz and Willet (in Calabrese et al., 1985 Proceedings of Conference on Inorganics in Drinking Water and Cardiovascular Disease, Amherst, Massachusetts, May, 1984) concluded that, "... experimental interventions on humans have shown small effects of sodium intake on blood pressure, 0.28 mm Hg/gram sodium

(Fitzgibbon et al., 1982) and 0.48mm Hg/gram sodium (Luft et al., 1979). In view of this small response, it is not surprising that many studies with few subjects have inadequate power to detect this apparently small effect."

In addition, referring to studies by Tuthill and Calabrese (1981 Drinking Water Sodium and Blood Pressure in Children: A Second Look, American Journal of Public Health, 71:722-729) and Gleiberman (1973 Blood Pressure and Dietary Salt in Human Populations, Ecology of Food and Nutrition, 2:143-156), Colditz and Willet concluded that, "the magnitude of the effect of drinking water sodium originally reported is biologically implausible, which adds additional doubt regarding the reported association."

Thus, given this inconclusive evidence, and considering that most people's sodium intake comes from other sources in the diet, EPA believes it is appropriate to remove sodium from the list of 83 contaminants.

Molybdenum. Two commenters supported EPA's proposed removal of molybdenum from the list of contaminants to be regulated. They believed that molybdenum has not been shown to have adverse health effects at concentrations found in drinking water.

Response. No response is necessary. EPA is removing molybdenum from the list of 83 contaminants.

Vanadium. Two commenters supported EPA's proposed removal of vanadium from the list, stating that the compound is rarely found in drinking water.

Response. No response is necessary. EPA is removing vanadium from the list of 83 contaminants.

Dibromomethane. No comments were received on dibromomethane. Therefore, EPA is removing dibromomethane from the list of 83 contaminants.

Sulfate. Three commenters urged EPA to remove sulfate from the list of 83 substances. These commenters believed that sulfate meets the criteria concerning potential health effects and occurrence of the contaminant that EPA established for selecting substitutes.

Response. While EPA agrees that there are not a great deal of data concerning the health risks from exposure to sulfate in drinking water, EPA believes that there is sufficient information to indicate that transient exposure to sulfate may result in adverse health effects (i.e., diarrhea and dehydration) at levels found in drinking water (see the Criteria Document on Sulfate). In addition, sulfate commonly occurs in drinking water. Thus, EPA is

not removing sulfate from the list of 83 contaminants.

Additional Contaminants Suggested for Removal

This section addresses the contaminants that commenters requested EPA to remove from the list of 83 contaminants in place of the seven EPA proposed to remove.

Phthalates. One commenter stated that butylbenzyl phthalate (BBP) should not be included on a general listing of phthalates for regulation since, unlike other phthalates, BBP has not been found in hazardous waste sites and BBP has not been shown to be teratogenic, genotoxic or neurotoxic. Another commenter thought that EPA should remove all phthalates from the list based upon the absence of human cancer risk from exposure to diethyl hexylphthalate (DEHP) in drinking water and the lack of occurrence of phthalates in drinking water.

Response. The Agency believes that BBP and DEHP are the phthalates of health concern. The Agency has concluded that BBP is a possible human carcinogen (Group C) and concern over the possible health effects of BBP has led the National Toxicology Program to schedule additional carcinogenicity studies on this chemical. The Agency will consider the results of these studies, when available, along with all other available data in regulating BBP. In addition, DEHP currently is classified as a probable human carcinogen (Group B2).

EPA agrees that the occurrence of phthalates in drinking water at significant levels is likely to be rare. However, EPA believes that there is sufficient evidence concerning the health effects of these compounds to warrant their regulation. Therefore, EPA is not removing phthalates from the list of 83 contaminants. However, EPA will consider regulating these two phthalate compounds only, rather than all phthalates, as a category.

Glyphosate. One commenter suggested that EPA remove glyphosate from the list of 83 contaminants because: (1) Glyphosate has not been detected in drinking water and is unlikely to reach public water supply wells, and (2) glyphosate causes minimal signs of toxicity and then only at very high concentrations.

Response. EPA agrees with the commenter that glyphosate is not a high priority chemical for regulation, due to health and occurrence considerations. However, glyphosate is a widely used, nonselective herbicide for the control of grasses and weeds. Therefore, EPA believes that, due to the high usage of

the compound, the potential for contamination of drinking water exists; data from future studies may well indicate contamination from this chemical. EPA recognizes that the toxicity of glyphosate is low, with adverse health effects evident only at relatively high doses. However, adverse effects have been demonstrated; in a three-generation rat reproduction study, renal tubular dilation was found in kidneys of male pups. NTP has selected glyphosate for in-depth toxicological evaluation. In addition, EPA is limited to seven substitutes; EPA believes that there is a stronger basis for removing the other seven chemicals it is removing instead. Therefore, EPA is not removing glyphosate from the list of 83 contaminants.

Asbestos. One commenter stated that asbestos should be deleted from the list of 83 contaminants because, "the studies conducted to date do not provide any convincing evidence of an association between asbestos in public water supplies and cancer induction."

Response: EPA disagrees. Although most of the carcinogenicity data on ingested asbestos fibers is negative, there is some evidence that asbestos fibers of lengths greater than 10 μ m may be carcinogenic to animals through ingestion exposure. In addition, there is potential for drinking water contamination from natural sources of asbestos and from asbestos-cement pipe which is commonly used in public water supply systems. Such contamination has been demonstrated. A NPDWR would limit exposure to asbestos. Therefore, EPA is not removing asbestos from the list of 83 contaminants.

Beryllium. One commenter thought that beryllium should be removed from the list of 83 contaminants. The major reason stated was that "there are no significant risks to human health from the ingestion of beryllium, and this is particularly true with respect to potential exposures at the levels in which beryllium is found in drinking water."

Response: Beryllium has been associated with an increased risk of cancer in animals exposed via inhalation and injection. While the totality of ingestion studies do not support a link between ingestion of beryllium and cancer, there is a rat study which showed a possible increase in lung cancer after ingestion of beryllium in drinking water. Results of mutagenicity studies were positive and contact dermatitis has been demonstrated with dermal exposure. Beryllium was detected in 0.3 percent of the sites studied in the NIRS. Because there is equivocal evidence regarding

the carcinogenicity of beryllium from oral exposure, EPA believes that beryllium should not be removed from the list of 83 contaminants. Accordingly, beryllium remains on the list.

Heterotrophic Plate Count (HPC). One commenter urged EPA to delete HPC from the list of 83 contaminants to be regulated based on a perceived lack of data regarding the correlation between HPC levels and waterborne disease.

The commenter especially questioned the link between opportunistic pathogens in drinking water and nosocomial (hospital-acquired) infections. In addition, this commenter stated that HPC measurement requirements should not be included in the monitoring requirements for total coliforms since EPA's contention that high HPC levels interfere with the laboratory enumeration of coliform bacteria is not justified by the data presented in the literature.

Response: EPA believes that it would be inappropriate to remove HPC from the list of 83 contaminants, and, in fact, the Agency has incorporated certain HPC requirements in the proposed NPDWR for total coliforms (52 FR 42224, November 3, 1987). The data do support the contention that high HPC levels interfere with enumeration of coliform bacteria (see the Criteria Document for Heterotrophic Bacteria). Although no strong association has yet been demonstrated between the density of heterotrophic bacteria in drinking water and the rate of waterborne disease outbreaks, it is known that a number of species of heterotrophic bacteria implicated in human disease can often be found in drinking water. In addition, heterotrophic plate count, a measure of heterotrophic bacteria, is widely used as an indicator of the quality of treatment of drinking water by the drinking water industry. Therefore, EPA is retaining HPC on the list of 83 contaminants.

Additional contaminants. Two commenters stated that the following contaminants do not meet the criteria established for regulation and, therefore, EPA should consider them for removal from the list of 83 contaminants: inorganic mercury, cyanide, acrylamide, 2,4-D, epichlorohydrin, PCBs, pentachlorophenol, *Legionellae*, *Giardia*, viruses, and total coliforms.

Response: EPA believes that the above contaminants meet the criteria established for regulation. The commenters provided no data to support their contention that these contaminants should be removed from the list of 83 contaminants. Therefore, these contaminants remain on the list of 83 contaminants.

Contaminants EPA Proposed to Substitute on the List of 83 Contaminants

This section addresses the contaminants EPA proposed to substitute for the seven contaminants removed from the list of 83 contaminants.

Aldicarb Sulfoxide and Aldicarb Sulfone. Two commenters addressed the proposed substitution of aldicarb sulfoxide and aldicarb sulfone on the list of 83 contaminants. One commenter supported EPA's proposal. The other commenter thought that EPA should address these two contaminants (and aldicarb, which is already on the list of 83 contaminants) as a group with one MCLG and NPDWR.

Response: EPA believes that it is appropriate to regulate aldicarb, aldicarb sulfoxide, and aldicarb sulfone separately. These are three distinct chemicals. Both aldicarb and aldicarb sulfone are individual pesticides used for pest control and aldicarb sulfoxide is a transformation product of aldicarb. These three compounds do not always appear together. In addition, the toxicity of these chemicals is not identical. Therefore, EPA is substituting aldicarb sulfoxide and aldicarb sulfone and listing them separately.

Ethylbenzene. Two commenters stated that ethylbenzene should not be substituted on the list of 83 contaminants due to limited occurrence.

Response: EPA believes that there is a potential for contamination from ethylbenzene because the compound has been detected at 111 hazardous waste sites and in the aquifer in at least one of these sites. Therefore, EPA is substituting ethylbenzene on the list of 83 contaminants.

Heptachlor and Heptachlor Epoxide. Two commenters addressed the proposed substitution of heptachlor and heptachlor epoxide in the list of 83 contaminants. One commenter stated that these chemicals should not be regulated due to their low occurrence and the other commenter thought that these two contaminants should be listed and regulated as a single contaminant.

Response: Heptachlor and heptachlor epoxide have been detected in drinking water and at seven hazardous waste sites in several states. Thus, EPA believes there is sufficient occurrence and potential for occurrence to warrant regulation.

EPA believes that it is appropriate to regulate heptachlor and heptachlor epoxide separately since these are distinct chemicals and the two compounds have been shown to have relatively different toxicities in animal

studies. In addition, the two compounds are not always detected together. Therefore, EPA is substituting both chemicals on the list of 83 contaminants.

Nitrite. Two commenters stated that nitrite should not be substituted on the list of 83 contaminants. One commenter stated that nitrite's instability in public water supplies makes the need for regulation questionable. This commenter also questioned whether there has been any documented evidence of nitrite in drinking water supplies being the cause of methemoglobinemia in infants. The other commenter believed that the occurrence data for nitrite did not warrant regulation.

Response: EPA is not aware of any cases of methemoglobinemia in infants due to consumption of nitrite in a public water supply. However, as it is clear that the toxicity of nitrate is due to the conversion of nitrate to nitrite in the human body, EPA believes that a nitrite standard (in addition to a nitrate standard which EPA has already proposed) is warranted to protect against the possible conversion of nitrate to nitrite in public water supplies (in drinking water, under anaerobic reducing conditions in the presence of certain bacteria, nitrate can be reduced to nitrite).

EPA is aware that limited monitoring data are available for nitrite in drinking water. This is because water that is disinfected contains only nitrate and most monitoring data have been gathered from disinfected systems. However, EPA believes that a standard for nitrite is warranted, especially since many groundwater systems are anaerobic and many remain undisinfected.

While EPA's proposed disinfection regulations would require most systems to disinfect, a number of systems will likely receive variances from the requirement. Therefore, EPA is substituting nitrite on the list of 83 contaminants.

Styrene. One commenter stated that the occurrence data on styrene is not sufficient to warrant regulation.

Response: EPA recognizes that styrene has historically been infrequently found in drinking water. However, this may be, in part, due to analytical and sample preservation difficulties.

Considering the high production levels, the fact that it is a frequent contaminant of resins commonly used in water treatment, and the fact that it has been frequently detected at hazardous waste sites, indicating the potential for groundwater contamination, EPA believes that regulation is justified.

Thus, EPA is substituting styrene on the list of 83 contaminants.

B. List of Contaminants Removed and Substituted

Based on the reasons and analyses provided in the proposal and the response to comments described above, the seven contaminants EPA is removing from the list of 83 contaminants mandated for regulation by Congress are as follows:

- zinc
- silver
- aluminum
- sodium
- dibromomethane
- molybdenum
- vanadium

Based on the reasons and analyses provided in the proposal and the response to comments described above, the seven contaminants which EPA is substituting for the seven removed are:

Substance	CAS No.	CAS Name
Aldicarb sulfone	1646884	Propanal, 2-methyl-2-(methylsulfonyl)-0-[(methylamino)carbonyl]oxirane
Aldicarb sulfoxide	164873	Propanal, 2-methyl-2-(methylsulfinyl)-0-[(methylamino)carbonyl]oxirane
Ethylbenzene	100414	Benzene, ethyl-
Heptachlor	76448	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
Heptachlor epoxide	1024573	2,5-Methano-2H-indeno[1,2-b]oxirane
Nitrite	14797650	Nitrite
Styrene	100425	Benzene, ethenyl-

EPA has already proposed RMCLs (now MCLGs) for each of the seven drinking water contaminants. There are adequate health effects and occurrence data to demonstrate that these seven contaminants have a greater potential to pose public health risks than the contaminants EPA is removing from the list of 83 contaminants. This information is presented in detail in the November 13, 1985 notice (50 FR 46936) and in the July 8, 1987 proposal (52 FR 25270). Detailed technical data on these contaminants, including health effects criteria documents, are available for each contaminant and can be found in the docket for the November 1985 proposal.

III. Drinking Water Priority List

A. Contaminants Considered for the Drinking Water Priority List

As described earlier, the Safe Drinking Water Act requires EPA to compile a priority list of contaminants ("Drinking Water Priority List" or "DWPL"). EPA is to publish this list by January 1, 1988 (and a new list every

three years thereafter) [section 1412(b)(3)(A)]. EPA must propose MCLGs and NPDWRs for 25 contaminants on the DWPL within two years after publishing it [section 1412(b)(3)(C)] and publish 25 MCLGs and NPDWRs for these contaminants within three years [section 1412(b)(3)(D)]. To establish the DWPL, the Act specifies that:

- Each contaminant removed from the list of 83 contaminants specified in the SDWA and replaced with another must be included on the DWPL [section 1412(b)(2)(C)].

- The DWPL must contain substances which are known or anticipated to occur in public water systems, and which may require regulation under the Act (e.g., may have any adverse effect on the health of persons) [section 1412(b)(3)(A)].

- EPA must consider certain lists of substances in compiling the DWPL [section 1412(b)(3)(B)]. These are:

- “Hazardous substances,” as defined in CERCLA, section 101(14); and
- Pesticides registered under FIFRA.

- The Agency must form an advisory working group including members from the National Toxicology Program and EPA's Offices of Drinking Water, Pesticides, Toxic Substances, Ground Water, Solid Waste and Emergency Response, and any other members the Administrator deems appropriate to assist in developing the DWPL [section 1412(b)(3)(B)].

Based on the requirements of the SDWA and the statutory timeframe for rulemaking (i.e., 25 contaminants on the list are to be regulated within three years of publication of the DWPL), EPA used the following general criteria to select substances for the first DWPL:

1. The contaminant must occur in public water systems, or its characteristics or use patterns must be such that it has strong potential to occur in public water systems at levels of concern.

2. The contaminant must have a documented or suspected adverse human health effect.

3. There must be sufficient information available on the contaminant (including health effects data, analytical methods, and treatability studies) so that a regulation could likely be developed within the statutory timeframe. Substances for which insufficient information to regulate in the next three years is available will be candidates for subsequent DWPLs (to be published triennially, beginning in 1991).

In general, EPA sought to select substances for the first DWPL which

represent a significant cross-section of the most important or potentially important drinking water contaminants. To achieve that end, EPA applied the above criteria to the following groups of contaminants to derive the first DWPL:

Group 1: The seven contaminants proposed for removal from the statutory list of 83 contaminants that EPA is to regulate by June, 1989 (the Act requires EPA to include these contaminants on the DWPL, regardless of the application of the above criteria [section 1412(b)(2)(C)]);

Group 2: Disinfectants and contaminants formed as a result of the disinfection process (“disinfection by-products”);

Group 3: The first 50 contaminants on the priority list that EPA is required to compile under section 110 of the Superfund Amendments and Reauthorization Act of 1986 (SARA);

Group 4: Design-analytes of the EPA National Pesticides Survey (NPS) and pesticides reported to be present in drinking water in certain federal and state surveys;

Group 5: Unregulated contaminants to be monitored under section 1445 of the SDWA; and

Group 6: Certain other substances reported frequently and/or at high concentrations in other recent surveys.

Several commenters expressed concern that the DWPL may become inflexible and that contaminants, once listed, may not be deleted even when EPA determines that there is no merit to regulating the contaminant. This is not EPA's intent. The DWPL is a flexible tool which is reviewed and revised every three years. Substances from previous lists that are not regulated need not be automatically included on subsequent lists. EPA believes that it was the clear intent of Congress that the DWPL be simply a “candidate” list for regulation consisting of substances which EPA believes may pose a threat to drinking water and that “may require regulation under the Act” (emphasis added). Some substances are placed on the list because they clearly present risks; others are placed on the list for further investigation to determine the need for regulation. After listing, EPA will determine which substances (no less than 25) require regulation. Hence, there is no separate official procedure for “delisting” substances from the DWPL; rather, each new triennial DWPL is independently constituted, with unregulated contaminants carried over from previous lists only as determined necessary by EPA.

Several commenters questioned the advisability of listing substances which have not been demonstrated to

contaminate public water supplies. The SDWA requires EPA to consider for the list substances which are “known or anticipated to occur in drinking water * * *” (emphasis added). Each of the groups of contaminants evaluated for inclusion on the DWPL contains both substances which are known to occur in public water supplies and substances which, for the reasons stated below, are anticipated to occur in public water supply. EPA's selection of significant environmental contaminants (as determined under various EPA programs), and contaminants which have been demonstrated to be potential problems in research studies, meets the statutory standard.

EPA discussed its specific rationale for selecting these particular groups of substances as candidates for the DWPL in the July 1987 notice (52 FR 25720). The significant public comments received, and EPA's final selections for inclusion on the first DWPL, are presented below.

Group 1: Substitutes From the SDWA List of 83 Contaminants

As described above, EPA has removed seven substances from the statutory list of 83 contaminants which EPA is required by the SDWA to regulate. EPA is including these seven contaminants on the first DWPL, as required by the Act. Public comments relating to the selection of these seven contaminants are summarized and addressed earlier in this notice. The seven contaminants are:

Zinc
Silver
Aluminum
Sodium
Dibromomethane
Molybdenum
Vanadium

Group 2: Disinfectants and Their By-Products

Chlorination is the most widely used method of disinfecting drinking water in the United States. It is convenient to use, effective in destroying or inactivating pathogens, and continues to disinfect in the distribution system. Other disinfectants include chlorine dioxide, chloramine, ammonia, and ozone. Congress has mandated that EPA promulgate regulations requiring disinfection as a treatment technique requirement for all public water systems (unless they obtain a variance or exemption) by June, 1989 [section 1412(b)(8)]. EPA has already proposed the disinfection requirement for surface water supplies (52 FR 42178, November 3, 1987). For ground-water supplies, EPA plans to combine the disinfection

requirement with regulations limiting disinfectant levels and levels of their toxic by-products. Therefore, EPA is placing the disinfectants and disinfectant by-products listed in Table 1 on the first DWPL. A complete discussion of the rationale for selecting specific substances in this group appears in the July 1987 notice (52 FR 25720). In today's notice, EPA has added chlorate and cyanogen chloride to the list in the July 1987 notice. These were not included on the list in the proposal, because of possible analytical methodology problems (July 1987 notice). However, EPA believes that an acceptable method is available for cyanogen chloride and that it is likely that methods will be available for chlorate by 1991 when EPA must promulgate regulations for 25 contaminants on the DWPL.

A number of commenters expressed concern about listing disinfectants on the DWPL, stating that these chemicals are beneficial and that EPA is likely to require their use in future regulations. Although EPA has proposed to require that surface water systems disinfect their water supplies (see 52 FR 42178, November 3, 1987), and the Agency plans to require many ground water systems to disinfect as well, EPA does not expect to specify which particular disinfectant must be used. Instead, EPA will provide a list of several disinfectants and appropriate concentrations. Some disinfectants are suspected or known human toxicants at certain dose levels. EPA is conducting a significant amount of research on the health effects of disinfectants at various concentrations. EPA strongly believes that the primary potential threat to public health from drinking water is disease caused by microbiological contamination and that disinfection is the most appropriate means of protecting the public from these risks. Yet some limits on the concentration of disinfectants that the public consumes may be necessary in order to protect the public from certain other potential health effects. EPA will consider both of these risks when regulating these substances.

EPA is conducting research on the occurrence, identification, and health effects of ozone by-products. Few of the by-products have been conclusively identified. However, as one commenter pointed out, while ozone is not likely to be present in water delivered to users in ozonated systems, ozone by-products are. Therefore, EPA is placing ozone by-products on the DWPL rather than ozone itself.

Some commenters suggested that analytical methodologies were not sufficiently available for many of the disinfection by-products listed. For several years, EPA has been conducting research on measuring the listed by-products. Several methods are currently being tested in the laboratory and field and are expected to be ready in time for promulgation of regulations for these contaminants by 1991. In addition, it is important to note that EPA also has the authority to regulate substances for which no analytical method is available by promulgating a treatment technique requirement under sections 1401(1)(D) and 1412(b)(7) of the SDWA. Because of the relationship between required disinfection and regulated by-products, some type of treatment technique requirement may be appropriate.

EPA believes that consumers are likely to be exposed to the listed disinfectants and by-products of those disinfectants; available information indicates that the selected by-products are a useful subset of the by-products that people are exposed to most and which may present health concerns. Many of the listed disinfection by-products occur frequently in drinking water and generally are found at higher concentrations than those not listed and which have been detected but not at frequent or high levels. Furthermore, EPA believes that the listed by-products can be controlled, and that their control will also limit exposure to related by-products.

EPA currently regulates four of the principal trihalomethane disinfectant by-products under one regulation (44 CFR 141.12). In addition, certain contaminants are listed by group (and presumably may be regulated by group) on the statutory list of 83 contaminants EPA is to regulate by June, 1989 (i.e., PAHs, PCBs, Phthalates, Adipates, Toxaphene, Viruses, and Total coliforms). As described in the July 1987 notice, EPA may regulate other disinfection by-products in groups also, in part because reduction of certain by-products or classes of by-products often results in the reduction of other by-products as well. In addition, the analyses of samples for these substances can often be performed together. Therefore, for listing on the DWPL, EPA has consolidated certain by-products into contaminant-groups or contaminant-classes, which are listed in Table 1. EPA will determine which contaminants, including THMs, require individual regulations and which should be regulated as a group, as in the current THM regulation. Listing by groups will allow EPA to regulate some or all of the

contaminant-classes listed in Table 1, as well as any specific substances in these groups. Each regulated contaminant or contaminant group will count toward the minimum of 25 substances that must be regulated under the Act. If EPA individually regulates certain contaminants in a listed contaminant group, EPA will count each individual contaminant, rather than the group, toward the minimum of 25 required regulations. Because of the significance of exposure to the intentionally added disinfectants themselves, they are listed separately. Unlike the July 1987 proposal, this final DWPL lists the various halonitriles and trihalomethanes individually.

Table 1.—Disinfectants and Disinfection By-Products

Chlorine
Hypochlorite
Chlorine dioxide
Chlorate
Chlorite
Chloramine
Ammonia
Ozone by-products
Chloroform
Bromodichloromethane
Chlorodibromomethane
Bromoform
Dichloroacetonitrile
Dibromoacetonitrile
Bromochloroacetonitrile
Trichloroacetonitrile
Halogenated Acids, alcohols, aldehydes, ketones, and other nitriles
Chloropicrin
Cyanogen chloride

Group 3: SARA Priority List

The Superfund Amendments and Reauthorization Act of 1986, [Pub. L. 99-499 (SARA)], amended CERCLA [42 U.S.C. 9601 *et seq.*]. SARA requires the Agency for Toxic Substances and Disease Registry (ATSDR) of the Department of Health and Human Services and EPA to prepare a priority-ordered list of hazardous substances covered by CERCLA which are most commonly found at hazardous waste sites on the CERCLA National Priority List (NPL), and which the agencies determine pose the most significant potential threat to human health. The two agencies must base their determination of the potential human health threat posed by these substances on their known or suspected toxicity to humans and the potential for human exposure to such substances. The first list of 100 substances was published in the Federal Register on April 17, 1987 (52 FR 12866).

ATSDR and EPA used three criteria for determining the degree to which each substance poses a potential human health risk: (1) Chemical toxicity; (2) frequency of occurrence of chemicals at NPL sites or certain other facilities; and (3) potential for human exposure to the substances (Final Support Document for the SARA List, U.S.E.P.A., 1987).

The list of 100 substances was separated into four priority groups of 25 substances each. The first group of 25 is the highest priority group, the second is the next highest priority, and so on. For a complete discussion of the basis and development of the SARA section 110 priority list, see 52 FR 12866, the background document on the SARA section 110 list, and the July 1987 notice (52 FR 25720).

EPA used modified Reportable Quantity (RQ) determinations when ranking the toxicity of the candidates for the SARA priority list. EPA has promulgated RQ values for most CERCLA section 101(14) hazardous substances, and most of the substances were considered in developing the SARA section 110 priority list. Accordingly, EPA believes that using the SARA section 110 list in the development of the first DWPL fulfills the SDWA requirement to consider CERCLA section 101(14) substances. In addition, the basic analyte list for the laboratory program which generated the site-specific data used in estimating the potential for human exposure to various contaminants at NPL sites was the Priority Pollutant list compiled under section 307(a) of the Clean Water Act. EPA has reviewed the findings from Agency-sponsored data-gathering projects at specific surface water supplies. These surface water data indicate that nearly all substances that were found at concentrations greater than one part per billion have already been considered by EPA in the development of the DWPL. Therefore, EPA believes that, by using the SARA section 110 list in the manner described in the July 1987 notice (52 FR 25720), the Agency has considered the key substances that are likely to be of concern in public water systems both from waste disposal and from other releases to surface and ground waters.

EPA has decided to consider the two highest priority groupings of chemicals under SARA for the DWPL. As a group, these fifty priority substances present the most significant concerns at Superfund sites and, hence, may pose significant risks of exposure via drinking water supplies. Furthermore, these two groups also include all substances on the SARA list with an RQ value of less

than 10 pounds (the more toxic the substance, the lower the RQ number).

EPA has deleted from the list of fifty high priority SARA substances all substances which are included in the statutory list of 83 contaminants which EPA is to regulate under the SDWA. The remaining substances to be considered for inclusion on the DEPL appear in Table 2. These substances which are included in one or more Tables in this section have not been deleted from Table 2. EPA will consider substances from the second group of fifty on the SARA section 110 list for listing on the next DWPL, which the Agency must publish by January 1, 1991. Because use of the SARA section 110 list necessarily excludes consideration of certain additional CERCLA section 101(14) substances, i.e., those for which the RQ is based on the Resource Conservation and Recovery Act (RCRA) hazardous waste characteristics (e.g., ignitability, reactivity, aquatic toxicity), EPA intends to evaluate the remaining section 101(14) substances, as well as other substances on various lists established by the Agency pursuant to legislative mandate, in the course of developing subsequent DWPLs.

Table 2.—Substances on the SARA Section 110 Priority List (From the First Two Priority Subgroups) Not Included in the Statutory List of 83 Compounds Required to be Regulated by EPA

Dieldrin/Aldrin
Chloroform
Heptachlor/Heptachlor epoxide
N-nitrosodiphenylamine
N-nitrosodimethylamine
4,4'-DDE, DDT, DDD
Chloroethane
Bromodichloromethane
Isophorone
1,1,2,2-Tetrachloroethane
3,3'-Dichlorobenzidine
Benzidine
Phenol
Bis(2-chloroethyl)ether
2,4-Dinitrotoluene
Bis(chloromethyl)ether
N-nitrosodi-n-propylamine

Group 4: Pesticides Registered Under FIFRA

The National Pesticides Survey (NPS) is a joint venture of the Office of Drinking Water and the Office of Pesticide Programs. The purpose of this survey and the criteria used to select analytes for the NPS makes these analytes logical candidates for inclusion on the DWPL from the universe of pesticides regulated by EPA.

As described in the July 1987 notice, EPA selected the design-analytes for the NPS from pesticide chemicals which are

either known to have occurred in groundwater as a result of agricultural uses, have certain physical/chemical characteristics which make them likely to end up in drinking water supplies, such as high water solubility, or are members of potential problem classes of chemicals with potential risks, such as triazines, substituted ureas, carbamates, substituted acetanilides, and aromatic acids. Also, EPA included nematocides because, in general, they are mobile, persistent, and are applied directly to the soil. In the NPS, EPA will also analyze for other pesticides that are quantifiable under an analytical method already being employed for a design analyte. While the NPS selection scheme, unlike the SARA section 110 priority list ranking scheme, did not explicitly consider toxicity, EPA is assuming, for purposes of developing this DWPL, that all of the analyte pesticides are of sufficient toxicity to be considered for listing on the DWPL. EPA believes this is a reasonable assumption, considering that pesticides are specifically developed for their toxicity to certain organisms. The NPS design-analytes appear in Table 3, except for substances which are already on the statutory list of 83 contaminants which the SDWA requires EPA to regulate or which are otherwise covered in this notice.

Table 3.—NPS Design-Analytes List, With Substances on the Statutory List of 83 Contaminants or Otherwise Covered in This Notice Deleted

Acifluorfen
Ametryn
Baygon
Bentazon
Bromacil
Butylate
Carbaryl
Carboxin
Carboxin sulfoxide
Chloramben
Chlorothalonil
Cyanazine
Cycloate
DCPA
DCPA acid metabolites
Diazanone
Dicamba
3,5-Dichlorobenzoic acid
1,3-Dichloropropene
Diphenamid
Disulfoton and sulfone
Diuron
ETU
Fenamiphos sulfone
Fenamiphos sulfoxide
Fluometuron
Hexachlorobenzene
Hexazinone

5-Hydroxydicamba
Methomyl
Methyl paraoxon
Metolachlor
Metribuzin
Metribuzin DA, DADK, DK
Prometon
Prometryn
Pronamide
Pronamide metabolite
Propachlor
Propazine
Propham
Tebuthiuron
Terbacil
Trifluralin
2,4,5-T

EPA expects that the National Pesticide Survey, which should be completed in 1990-1991, will provide the information needed to evaluate additional pesticides for possible inclusion on the next DWPL (January 1, 1991).

Group 5: Monitored, But Currently-Unregulated Contaminants

Under Section 1445 of the Safe Drinking Water Act, EPA may require public water systems to conduct monitoring and provide other information necessary to establish regulations, evaluate the health risks of unregulated contaminants, or advise the public of such risks [section 1445(a)(1)]. Section 1445 requires EPA to publish a list of unregulated contaminants (i.e., contaminants for which there is no national primary drinking water regulation specifying an MCL or treatment technique requirement). Generally, each system must monitor for each contaminant on the list once every five years unless the Administrator requires more frequent monitoring. EPA promulgated monitoring requirements for 51 unregulated volatile organic contaminants (VOCs) on July 8, 1987 (52 FR 25690). These contaminants were generally selected based on their capability of being detected by the methodology specified in the July 1987 NPDWRs for eight VOCs.

In developing the monitoring requirements for these 51 unregulated VOCs, EPA evaluated the likelihood of widespread occurrence, the cost of monitoring, the availability of reliable analytical methods, the availability of laboratories to perform these analyses, and the experience of EPA and several States in conducting monitoring surveys. A more complete discussion of these analyses appears in the notice promulgating the monitoring requirements (52 FR 25690) and the July 1987 notice proposing the first DWPL (52 FR 25720).

In the monitoring regulations for the 51 unregulated contaminants (52 FR 25690), these volatile organic chemicals are divided into three categories. EPA is including, on the first DWPL, the unregulated contaminants listed in Categories 1 and 2 (see 52 FR 25690, July 8, 1987). These are the substances for which all systems (in the case of Category 1) or many systems (in the case of Category 2) will be monitoring in the next five years. It is likely that States will not require many systems to monitor for Category 3 VOCs (unless their supplies are particularly vulnerable to contamination by these VOCs), so EPA is not including them on the first DWPL. EPA believes that compliance data on the eight regulated VOCs and monitoring data for the VOCs in the two categories of unregulated VOCs will not only identify the VOCs that appear in drinking water, but also provide a useful surrogate for industrial contamination in general.

Some of the 35 contaminants in these two categories are already included in the statutory list of 83 contaminants EPA is to regulate under the SDWA. EPA considered the remaining contaminants for listing on the DWPL. They are listed in Table 4. Those contaminants which are included in another table(s) in this section have not been deleted from Table 4.

Table 4.—Contaminants Listed in the Monitoring Requirements for 51 Unregulated Contaminants (52 FR 25690)

Chloroform
Bromodichloromethane
Chlorodibromomethane
Bromoform
1,1,1,2-Tetrachloroethane
Ethylbenzene
1,3-Dichloropropane
Bromobenzene
Chloromethane
1,1-Dichloroethane
Bromomethane
1,2,3-Trichloropropane
1,1,1,2-Tetrachloroethane
Chloroethane
2,2-Dichloropropane
o-Chlorotoluene
p-Chlorotoluene
1,1-Dichloropropane
1,3-Dichloropropane

Group 6: Substances Reported Frequently and/or at High Concentrations in Recent Surveys or From Other Sources

The National Inorganics and Radionuclides Survey (NIRS) is a project of the EPA Office of Drinking Water. This recently completed survey indicated relatively widespread occurrence of strontium and boron in

public water supplies (NIRS, 1987). While EPA believes that these substances are not likely to pose a significant health threat to consumers of water from public water systems, EPA is including these two substances on the first DWPL because the Agency plans to evaluate the need for MCLGs and NPDWRs for these contaminants.

Cryptosporidium is a protozoan which has recently been identified as a waterborne disease agent. In 1984, it was implicated in a disease outbreak in Texas, in which 117 cases of gastroenteritis were reported. The community in question was supplied by groundwater, and treatment was identified as being deficient (CDC, 1985). Another reported waterborne disease outbreak occurred in January 1987 in Carrollton, Georgia. Over 20,000 cases were reported. Although some protection from *Cryptosporidium* would be provided by compliance with the proposed filtration and disinfection rules published on November 3, 1987 (52 FR 42178), EPA is including *Cryptosporidium* on the first DWPL, because the Agency plans to determine whether specific regulation of this contaminant is necessary. For a more complete discussion of the rationale for this selection, see the July 1987 notice.

One commenter suggested that "corrosivity" be added to the DWPL. Corrosivity itself is not toxic, but the corrosivity of water generally indicates the potential for the water to leach lead, copper, asbestos, and other toxic substances from distribution and plumbing systems. Corrosivity is already covered in the National Secondary Drinking Water Regulations. When EPA promulgates NPDWRs for corrosion byproduct chemicals, the regulations will be based, in part, on corrosion control.

One State commented that EPA should consider the regulatory agendas of the States when choosing substances for the DWPL. The commenter provided a survey of state regulatory activities. EPA has incorporated many of the survey's recommendations in the final DWPL. For instance, as described below, EPA has added several pesticides to the DWPL that EPA did not include in the proposed DWPL because of perceived data gaps.

B. Contaminants Considered for the Drinking Water Priority List but Deleted due to Lack of Exposure or Data Availability

1. Exposure Potential and/or Physical-chemical Properties

EPA stated in the July 1987 notice (52 FR 25720) that it believes that there is little or no potential for either adverse health effects or exposure through drinking water to certain candidates for the DWPL because of physical-chemical properties or other reasons. Having received no comments on this conclusion and no countervailing data since proposal, EPA is therefore not including the following substances on the DWPL:

- Aldrin/Dieldrin
- DDT, DDE, and DDD
- Benzidine
- 3,3'-Dichlorobenzidine
- Bis(chloromethyl)ether
- Bis(chloroethyl)ether
- Naphthalene
- Acrolein
- Aniline
- Phenol
- N-nitrosodimethyl amine
- N-nitrosodi-n-propylamine

2. Data Availability

In the July 1987 notice, EPA proposed to eliminate a number of candidate contaminants because sufficient data to regulate them is not expected to be available to the Agency in time to meet the statutory deadline for regulating contaminants from this list (i.e., January 1, 1991). Several commenters agreed with the concept of listing substances only when there was a reasonable expectation that there would be data to write a regulation within three years. However, even though there are significant data gaps for most of the candidate pesticides, for countervailing reasons (see the July 1987 notice), the Agency proposed to include a subset of these pesticides (isophorone, ETU, and 1,3-dichloropropene) on the DWPL, in spite of data availability concerns.

C. Contaminants Added to the Drinking Water Priority List

1. Pesticides

In response to comments, EPA has decided to include on the final DWPL several additional pesticides which it did not include on the proposed DWPL because of likely data gaps. Several commenters urged EPA to add the pesticide metolachlor to the DWPL. In addition, a State commenter, which surveyed all the other States, suggested listing several additional pesticides because they are of significant concern to many States (i.e., a significant number of States are writing regulations or

developing other restrictions on these pesticides). Also, the National Drinking Water Advisory Council commented that EPA should, " * * * add a few pesticides for which high occurrence potential exists, but for which data may not yet be available to set regulations. The DWPL would then serve as a mechanism to accelerate data collection for these compounds." Based on the comments, EPA believes it is important to move quickly to develop the necessary information on these chemicals because of the concern they pose. Therefore, EPA has added these pesticides to the first DWPL:

- Cyanazine
- Dicamba
- Metolachlor
- Metribuzin
- Trifluralin

EPA will consider for placement of future lists all candidate pesticides which it considered including on the first DWPL but did not because of data limitations. In addition, if EPA determines that any of these substances, or any other substances, pose a potential risk to public health, the Agency may regulate those substances whether or not they are on the DWPL.

2. Additional Substances

EPA is adding methyl-tertiarybutyl-ether (MTBE) to the first DWPL. This substance was not included in the July 1987 notice. However, the Agency has recently identified MTBE as a high-risk-chemical for contamination of drinking water supplies and their sources. MTBE is used widely as a gasoline component, and as such is stored, transported, and used all over the country. MTBE has been detected in a number of groundwaters, probably as a result of leaking underground storage tanks, disposal facilities, or spills. Manufacturers of MTBE have initiated a battery of toxicological evaluations for MTBE. Because of the potential for widespread contamination, EPA is listing MTBE on the first DWPL.

D. First Drinking Water Priority List

Table 5 is the final Drinking Water Priority List of 53 contaminants and contaminant groups. This list is a compilation of substances from the six groups discussed in this notice. EPA removed duplicate contaminants and contaminants that are inappropriate for listing at this time based on exposure considerations and/or physical-chemical properties, or lack of data.

TABLE 5—PRIORITY LIST OF DRINKING WATER CONTAMINANTS

Substance	CAS No.	CAS Name
1,1,1,2-Tetrachloroethane	630206	Ethane, 1,1,1,2-tetrachloro-
1,1,2,2-Tetrachloroethane	79545	Ethane, 1,1,2,2-tetrachloro-
1,1-Dichloroethane	75343	Ethane, 1,1-dichloro-
1,1-Dichloropropene	563586	1-Propene, 1,1-dichloro-
1,2,3-Trichloropropane	96184	Propane, 1,2,3-trichloro-
1,3-Dichloropropane	142289	Propane, 1,3-dichloro-
1,3-Dichloropropene	542756	1-Propene, 1,3-dichloro-
2,2-Dichloropropane	584207	Propane, 2,2-dichloro-
2,4,5-T	93765	Acetic Acid, (2,4,5-trichlorophenoxy)-
2,4-Dinitrotoluene	121142	Benzene, 1-methyl-2,4-dinitro-
Aluminum	7429905	Aluminum
Ammonia	7664817	Ammonia
Boron	7440428	Boron
Bromobenzene	106861	Benzene, bromo-
Bromochloroacetonitrile	83463621	Acetonitrile, bromochloro-
Bromodichloromethane	75274	Methane, bromodichloro-
Bromoforn	75252	Methane, tribromo-
Bromomethane	74839	Methane, bromo-
Chloramines		Chloramides
Chlorate	14866683	Chlorate
Chlorine	7782505	Chlorine
Chlorine dioxide	10049044	Chlorine oxide
Chlorite	14998277	Chlorite
Chloroethane	75803	Ethane, chloro-
Chloroform	67668	Methane, trichloro-
Chloromethane	74873	Methane, chloro-
Chloropicrin	76062	Methane, trichloronitro-
Cryptosporidium		
Cyanazine	21725462	(Propanenitrile, 2-[{4-chloro-6-(ethylamino)-1,3,5-triazin-2-yl}amino]-2-methyl-
Cyanogen chloride	506774	Cyanogen chloride
Dibromoacetonitrile	3252435	Acetonitrile, dibromo-
Dibromochloromethane	124481	Methane, dibromochloro-
Dibromomethane	74853	Methane, dibromo-
Dicamba	1618009	Benzoic acid, 3,6-dichloro-2-methoxy-
Dichloroacetonitrile	3018120	Acetonitrile, dichloro-
ETU	96457	2-Imidazolidinethione
Hypochlorite ion	14380611	Hypochlorite
Isophorone	78591	2-Cyclohexen-1-one, 3,5,5-trimethyl-
Methyl tert-butyl ether	1634034	Propane, 2-methoxy-2-methyl-
Metolachlor	51218452	Acetamide, 2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)-
Metribuzin	21087649	1,2,4-Triazin-5(4H)-One, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
Molybdenum	7439987	Molybdenum
Ozone byproducts		
Silver	7440224	Silver

TABLE 5—PRIORITY LIST OF DRINKING WATER CONTAMINANTS—Continued

Substance	CAS No.	CAS Name
Sodium	7440235	Sodium
Strontium	7440246	Strontium
Trichloroacetonitrile	545062	Acetonitrile, trichloro-
Trifluralin	1582098	Benzenamine, 2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)-
Vanadium	7440622	Vanadium
Zinc	7440666	Zinc
o-Chlorotoluene	95498	Benzene, 1-chloro-2-methyl-
p-Chlorotoluene	106434	Benzene, 1-chloro-4-methyl-
Halogenated acids, alcohols, aldehydes, ketones, and other nitriles.		

E. Future Drinking Water Priority Lists

The six groups of substances described above were the basis for the development of the first DWPL. EPA will consider substances in these categories not included in this DWPL as well as other substances in developing subsequent DWPLs. Other substances to be considered for future lists will include but are not limited to those listed pursuant to section 1428 of the Act (wellhead protection), other CERCLA section 101(14) substances, and other hazardous substances.

IV. References

The docket for the removal and substitution portion of this notice includes the public comments received pursuant to the July 1987 notice. EPA discussed in its November 13, 1985 proposal (50 FR 46936) all of the contaminants proposed for removal from and substitution on the list of 83 contaminants (except dibromomethane). Data on these contaminants are in the public docket for that rulemaking located at EPA Headquarters, at the address listed at the beginning of this notice. These data include references on the occurrence in drinking water, analytical methods, and health effects for the seven contaminants proposed for substitution on the list of 83 contaminants. The technical support documents prepared by EPA are included in these references. Dibromomethane is discussed in the July 1987 notice. Data on the seven substitutes are also in the public docket. EPA is currently preparing technical assessment documents for these contaminants. These include health effects Criteria Documents or Health Advisories for each of the seven contaminants. Individuals should contact the Drinking Water Regulations Docket Manager (Ms. Pat Minami, 202-382-7575) for access to the public docket.

References for the DWPL portion of this notice consist of the public comments received and EPA's response

to those comments. This docket is located at EPA Headquarters, at the address listed at the beginning of this notice. Individuals should contact the Drinking Water Regulations Docket Manager (Ms. Pat Minami, 202-382-7575) for access to the public docket.

V. Other Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This notice is not a regulation and will not have a major financial or economic impact on any party. Therefore, EPA has not prepared an Economic Impact Analysis (EIA). EPA will prepare an EIA, if appropriate, at the time of regulation of any contaminant substituted on the list of 83 contaminants or listed on the DWPL.

The Office of Management and Budget (OMB) has reviewed this notice.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires EPA to explicitly consider the effect of proposed regulations on small entities. This notice does not promulgate any regulations. Therefore, the Regulatory Flexibility Act requires no such analysis. As EPA prepares regulations for contaminants under section 1412 of the SDWA for substances substituted on the list of 83 contaminants or selected from the Drinking Water Priority List, EPA will consider the effect of the proposed regulations on small entities.

C. Paperwork Reduction Act

There are no information collection requirements in this notice (44 U.S.C. 3501 *et seq.*).

D. Technical Review

The National Drinking Water Advisory Council reviewed the July 1987 proposal at its meeting on November 5-6, 1987 and, " * * * concurred in the approach used for listing * * * and

encouraged EPA to add a few pesticides for which high occurrence potential exists * * *." The Council also generally supported the Agency's decisions regarding contaminants for removal from the list of 83 and substitutes for those removed.

Date: January 13, 1988.

Lee M. Thomas,

Administrator.

Appendix A—83 Contaminants Required to be Regulated under the SDWA of 1986

Volatile Organic Chemicals

Trichloroethylene	Benzene
Tetrachloroethylene	Chlorobenzene
Carbon tetrachloride	Dichlorobenzene
1,1,1-Trichloroethane	Trichlorobenzene
1,2-Dichloroethane	1,1-Dichloroethylene
Vinyl chloride	trans-1,2-Dichloroethylene
	Cis-1,2-Dichloroethylene
Methylene chloride	Dichloroethylene

Microbiology and Turbidity

Total coliforms	Viruses
Turbidity	Standard plate count
Giardia lamblia	Legionella

Inorganics

Arsenic	Molybdenum
Barium	Asbestos
Cadmium	Sulfate
Chromium	Copper
Lead	Vanadium
Mercury	Sodium
Nitrate	Nickel
Selenium	Zinc
Silver	Thallium
Fluoride	Beryllium
Aluminum	Cyanide
Antimony	

Organics

Endrin	1,1,2-Trichloroethane
Lindane	Vydate
Methoxychlor	Simazine
Toxaphene	PAH's
2,4-D	PCB's
2,4,5-TP	Atrazine
Aldicarb	Phthalates
Chlordane	Acrylamide
Dalapon	Dibromochloropropane (DBCP)
Diquat	1,2-Dichloropropane
Endothall	Pentachlorophenol
Glyphosate	Pichloram
Carbofuran	Dinoseb
Alachlor	Ethylene dibromide (EDB)
Epichlorohydrin	Dibromomethane
Toluene	Xylene
Adipates	Hexachlorocyclopentadiene

2,3,7,8-TCDD (Dioxin)

Radionuclides

Radium 226 and 228	Gross alpha particle activity
Beta particle and photon radioactivity	
Uranium	Radon

[FR Doc. 88-1274 Filed 1-21-88; 8:45 am]

BILLING CODE 6560-50-M

Registered Federal Reporter

Friday
January 22, 1988

Part III

Pension Benefit Guaranty Corporation

29 CFR Part 2610

Payment of Premiums; Final Rule

29 CFR Parts 2616, 2617 and 2618

Single-Employer Plan Terminations;
Notice of Revised Termination Rules

Payment of Premiums; Guidelines on
Premium Due Dates

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the regulation of the Pension Benefit Guaranty Corporation ("PBGC") on Payment of Premiums, 29 CFR Part 2610, to authorize the use of a new form, in addition to the PBGC Form 1, for premium payments to the PBGC. The Pension Protection Act, a part of the Omnibus Budget Reconciliation Act of 1987, amends section 4006 of the Employee Retirement Income Security Act of 1974 to establish a two-part premium structure for covered single-employer plans, *i.e.*, a flat per capita assessment and a variable rate assessment, effective for plan years beginning after December 31, 1987. As part of its implementation of these new premium rules, the PBGC has determined that it can simplify the payment of the flat per capita assessment for certain large plans (which is due on or before the last day of the second month of a plan year beginning in 1988) by prescribing a new form for that purpose, the PBGC Form 1-ES, to be used in lieu of the Form 1. The effect of this rule is to modify the regulation, which currently provides for only the Form 1, to permit the use of Form 1-ES for this filing.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT:

Rena E. Hubbard, Special Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, 202-778-8850 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The regulation of the Pension Benefit Guaranty Corporation ("PBGC") entitled Payment of Premiums, 29 CFR Part 2610, prescribes the rules and procedures for the payment of premiums by pension plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Section 2610.6 of the regulation provides that the form to be used "for the declaration, payment and reconciliation of premiums is PBGC Form 1."

The Pension Protection Act ("PPA"), a part of the Omnibus Budget Reconciliation Act of 1987, amends ERISA by establishing a two-part

premium structure for covered single-employer plans, *i.e.*, a flat per capita assessment and a variable rate assessment, effective for plan years beginning after December 31, 1987. In a Notice of Revised Premium Due Dates, published concurrently with this final rule, the PBGC advises contributing sponsors and plan administrators that certain due dates under the regulation are being suspended in order to facilitate a transition to the new premium structure that is less costly for the affected plans. However, the due date for the filing and payment of the estimated amount of the flat per capita assessment by plans with 500 or more participants is unchanged. Under § 2610.3(a) of the regulation, that due date is the last day of the second month following the close of the prior plan year. Thus, for many large plans (those with calendar plan years) the 1988 per capita portion of the premium is due by February 29, 1988. The PBGC has decided to simplify and, hopefully, make less expensive the timely estimation and payment of this per capita assessment by large plans by prescribing a new, shorter PBGC Form 1-ES. The new PBGC Form 1-ES, together with a revised PBGC Form 1 and filing instructions (to be issued later), will be part of a new PBGC Annual Premium Payment Package. This Package will be used by contributing sponsors and plan administrators to fulfill their premium filing and payment obligations. Accordingly, § 2610.6 of the regulation is being amended to substitute a reference to the PBGC Annual Premium Payment Package for the specific reference to PBGC Form 1.

The collection of information requirements contained in the premium regulation have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and the regulations thereunder (5 CFR Part 1320) for use through December 31, 1990, OMB No. 1212-0009. The collection of information requirements in PBGC Form 1-ES are the subject of a Notice of Information Request Submitted for OMB Review and Approval published previously.

Because this rule pertains to agency procedure, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. Moreover, because no general notice of proposed rulemaking is required, the Regulatory Flexibility Act of 1980, 5 U.S.C. 601(2), does not apply.

The PBGC has determined that this is not a "major rule" within the meaning of Executive Order 12291, February 17,

1981 (46 FR 13193), because it will not result in an annual effect on the economy of \$100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, Part 2610, Subchapter B, Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for Part 2610 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307, as amended by sec. 11005, Pub. L. 99-272, 100 Stat. 82, 240, and sec. 9331, Pub. L. 100-203, 101 Stat. 1330.

2. Section 2610.6 is revised to read as follows:

§ 2610.6 Forms.

The estimation, declaration, reconciliation and payment of premiums shall be made using the forms prescribed by and in accordance with the instructions in the PBGC Annual Premium Payment Package.

3. Paragraphs (a)(6)(ii) and (a)(8)(iii)(B) of § 2610.3 are amended by adding a footnote 1 at the end of the respective paragraphs to read as follows:

§ 2610.3 Filing requirements.

* * * * *

¹ This paragraph shall not apply with respect to the variable rate portion of the premium due for a plan year beginning on or after January 1, 1988.

4. Paragraphs (a)(6)(i), (a)(7), (a)(8)(iii)(A) and (b)(5) of § 2610.3 are suspended.

Issued at Washington, DC this 19th day of January, 1988.

Kathleen P. Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-1308 Filed 1-21-88; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Parts 2616, 2617, and 2618

Single-Employer Plan Terminations Under the Pension Protection Act

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of revised termination rules.

SUMMARY: This notice advises contributing sponsors and plan administrators of single-employer plans of certain new statutory requirements relating to the termination of such plans. The Pension Protection Act, a part of the Omnibus Budget Reconciliation Act of 1987, amends Title IV of the Employee Retirement Income Security Act of 1974 in several significant respects. These amendments apply generally to plan terminations for which notices of intent to terminate are issued after December 17, 1987. The effect of this new notice is to advise contributing sponsors of their new obligations with respect to terminating single-employer plans and to advise plan administrators of changes in the termination procedures effected by these new rules.

EFFECTIVE DATE: December 18, 1987.

FOR FURTHER INFORMATION CONTACT:

Pension Benefit Guaranty Corporation, Coverage and Inquiries Branch, IOD, Code 25410, 2020 K Street NW., Washington, DC 20006; or call 202-778-8820 or, for TTY and TDD only, 202-778-8859 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, includes the Pension Protection Act ("PPA"), which amends the pension plan funding and termination, as well as other miscellaneous provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). This notice describes the amendments to the plan termination rules in Title IV of ERISA and is intended to alert interested persons to the changes in the law. The new termination rules apply (with one exception discussed below) to voluntary terminations for which a notice of intent to terminate is issued to affected parties (pursuant to ERISA section 4041(a)(2)) after December 17, 1987, and to involuntary terminations initiated by the Pension Benefit Guaranty Corporation ("PBGC") under section 4042 after that date. Plan administrators initiating standard or distress terminations on or after the effective date of the amendments should still, in general, follow the rules and procedures set forth in the PBGC's Notice of Interim Procedures (51 FR 12491 (April 10, 1986)). (The PBGC's new termination regulations, issued in proposed form for public comment on September 2, 1987 (52 FR 33318), are not yet in effect. When the final regulations are issued, they will reflect the PPA amendments discussed herein.) Those rules and procedures that are modified

by the PPA are discussed below. This notice does not address all of the Title IV amendments in the PPA; nor is it intended as an exhaustive discussion of the plan termination amendments. Pension plan practitioners should familiarize themselves with the PPA. (Statutory citations below are to sections of the Budget Reconciliation Act, except where otherwise noted.)

Standard Terminations

The major change in the law with respect to standard terminations is the increase in plan benefits that must be paid in order for a plan to terminate in a standard termination. The prior rule that a plan be able to discharge all benefit commitments under the plan has been replaced by the requirement that a plan pay all "benefit liabilities" under the plan (in section 9313(a)). The term "benefit liabilities" is synonymous with pre-PPA termination liability and includes all fixed and contingent liabilities to plan participants and beneficiaries, including liability for benefits in effect on the date of termination that are not protected under section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of ERISA. (Conference Report on H.R. 3545, Budget Reconciliation Act of 1987, H.R. Rep. No. 100-495, 100th Cong., 1st Sess.) Therefore, in order to terminate in a standard termination, a plan will have to purchase irrevocable commitments that preserve all benefits and benefit forms in effect on the date of termination or pay lump sum benefits that include the value (as of the distribution date) of all such benefits.

In order to reflect this change, the notice to participants and beneficiaries of the benefits they will receive on plan termination, referred to under prior law as the "notice of benefit commitments" (ERISA section 4041(b)(2)(B)), should now be referred to as the "notice of plan benefits" and should include a statement of the participant's (or beneficiary's) full benefit under the plan. The other information required in the notice (e.g., the specific data used to compute a person's benefit) must still be provided.

The information filed with the PBGC pursuant to ERISA section 4041(b)(2)(A) and the Notice of Interim Procedures must also be modified slightly. The "Enrolled Actuary Certification" (PBGC Form 444) must now include the actuarial present value of all benefit liabilities (rather than benefit commitments) (see item 1A) and a statement that the plan is projected to be sufficient for all benefit liabilities as of the proposed distribution date. The enrolled actuary should make these

changes in ink on the form; the form should *not* be re-typed. Finally, as part of the notice to PBGC, the plan administrator must state the date on which the section 4041(b)(2)(B) notices of plan benefits were issued. (The PBGC is in the process of revising the termination forms, i.e., Forms 444 and 445 and the PBGC portion of Form 5310. They will be combined into a single PBGC termination form that PBGC hopes to issue at the same time as the final termination regulations.)

The PPA also makes important changes in ERISA section 4044(d), which deals with the distribution of so-called "excess" or "residual" assets upon plan termination. (It should be noted that the PPA does not change the Joint Implementation Guidelines issued by the PBGC, Treasury Department and Department of Labor on May 24, 1984.) Under section 9311(a), a plan amendment to permit an employer to recover the residual assets left after satisfaction of all plan benefit liabilities or to increase the amount of such assets that may be distributed to the employer may not be effective before the end of the fifth calendar year following the adoption date of the amendment. Any such amendment adopted on or before December 17, 1987 is not subject to this rule. A plan that has contained an employer reversion provision since the effective date of the plan is also excluded from this 5-year rule, even if the plan was not in effect on December 17, 1987. If, as of December 17, 1987, a plan has no provision relating to the distribution of residual assets to the employer, any such amendment adopted prior to December 18, 1988 will also be excluded from the 5-year rule; amendments to such plans adopted after December 17, 1988 will be subject to the rule.

In light of these new rules, for terminations that will involve a reversion to the employer, the plan administrator must state in the standard termination notice to the PBGC that the plan contains a provision permitting a reversion to the employer and give the adoption date of the provision.

A second change to ERISA section 4044(d) concerns the method used in a contributory plan for computing the portion of the excess assets that is attributable to mandatory employee contributions. That portion of the residual assets must be distributed to participants and their beneficiaries in every case (ERISA section 4044(d)(3), as amended). Under the PPA, the "presumptive method" for calculating this amount in the PBGC's allocation of assets regulation (29 CFR 2618.31(b)) is

made the mandatory method for all cases, with one modification relating to the definition of participants. This rule applies to terminations for which notices of intent to terminate are issued after December 17, 1987.

Under the rule in § 2618.31(b), "participants" for purposes of this calculation are all individuals who are plan participants on the date of plan termination. Under § 2618.31(a), the persons who share in this portion of the residual assets are those entitled to benefits under priority category 2 (ERISA section 4044(a)(2)), determined as of the asset distribution date (§ 2618.2). Under the rule as codified in amended ERISA section 4044(d)(3), the same group of participants is used for both purposes and "participant" is defined to include both an individual who is a participant on the date of termination and an individual who, within the 3-year period ending on the termination date, received a distribution from the plan of his entire nonforfeitable benefit either in the form of a lump sum distribution (paid to the individual or to another plan on the individual's behalf) or as an irrevocable commitment purchased from an insurer to provide such nonforfeitable benefit (section 9311(b)(2)). Those individuals who had been previously cashed out are included in the computation under amended ERISA section 4044(d)(3) by adding to the numerator of the fraction (amended section 4044(d)(3)(B)(ii)(I)) each such person's accumulated mandatory employee contributions with interest to the date of the distribution to the individual, and by adding to the denominator (amended section 4044(d)(3)(B)(ii)(II)) the amount of the lump sum or the cost of the insurance contract distributed to the individual.

As under prior law, the portion of the excess assets attributable to employee contributions is to be "equitably distributed" among the participants. Plan administrators should continue to use the rule in § 2618.32(b) (ignoring the reference to an allocation method under § 2618.31(c)(3)) for this purpose.

For plans that are subject to this new rule, item 5 on the Enrolled Actuary Certification and item 1.C. on the Plan Administrator Certification are no longer appropriate as written. Therefore, item 1.C. should be deleted, and the enrolled actuary should strike the words

"PBGC regulations, 29 CFR 2618.31(b)" in item 5 and insert in their place "amended ERISA section 4044(d)(3)." As mentioned before, changes on the forms should be made in ink; the forms should not be re-typed.

Plan administrators should note one final change with respect to standard terminations (and, if applicable, distress terminations as well): For plans described in section 412(i) of the Internal Revenue Code of 1986, the Enrolled Actuary Certification is no longer required (section 9314(a)).

Distress Terminations

Consistent with the new requirement for standard terminations that all plan benefit liabilities be satisfied, a contributing sponsor that terminates a plan in a distress termination is now liable (along with the members of its controlled group) for all unfunded benefit liabilities (section 9312(b)(2)) amending ERISA section 4062(b)(1)(A). (In a technical change, the 30-percent of net worth limitation has been moved from section 4062(b) to section 4068; under the new employer liability rules, the net worth limitation is relevant only for determining the amount subject to PBGC's statutory lien and the status of PBGC's claim in bankruptcy.)

In addition, the full employer liability now runs solely to the PBGC. The existing mechanism for collecting and paying employer liability to plan participants and beneficiaries introduced by the Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA"), the section 4049 trust, has been repealed (section 9312(a)). In the future, the PBGC will pay participants and beneficiaries a portion of their outstanding benefit liabilities (i.e., unfunded benefit liabilities that are not guaranteed benefits) from the PBGC's employer liability recovery. The amounts paid by the PBGC will be based on a "recovery ratio", which is, in general, the ratio of the value of an employer liability recovery to the total employer liability claim for unfunded benefit liabilities. (After a transition period, this ratio will be determined from the data for prior plan terminations, except for large cases where the actual ratio for the particular termination will be used.) The amounts paid to participants and beneficiaries will be allocated in accordance with

ERISA section 4044(a). These rules apply to distress terminations for which the notices of intent to terminate are issued after December 17, 1987 and to involuntary terminations under ERISA section 4042 initiated by the PBGC after that date.

The PPA also effects several changes to the distress termination tests in ERISA section 4041(c)(2)(B) (section 9313(b)). As amended, the liquidation test (clause (i)) now includes proceedings that were commenced as reorganization proceedings and subsequently converted to liquidation proceedings. Both the liquidation and reorganization tests now require that a person seeking to qualify under either test be in the proceeding as of the proposed termination date. Persons seeking to qualify under the reorganization test must give the PBGC advance written notice that the person intends to ask the bankruptcy (or other appropriate) court to approve the plan termination; the notice must include a copy of the request. Finally, in order to approve a termination under the reorganization distress test, the court must make a determination that "unless the plan is terminated, such person will be unable to pay all its debts pursuant to a plan of reorganization and will be unable to continue in business outside the chapter 11 reorganization process." The addition of this standard for approval of a termination should provide useful guidance to contributing sponsors seeking distress terminations and to the bankruptcy courts and foster consistent application of the second distress test. These amendments have the same effective date as the others.

One final change for distress terminations is that every member of the contributing sponsor's controlled group must now meet one of the criteria for distress; the SEPPAA rule that only "substantial" members of the controlled group had to satisfy one of the distress criteria has been repealed. This amendment, too, has the same effective date.

Issued in Washington, DC, the 19th day of January, 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-1306 Filed 1-21-88; 8:45 am]

BILLING CODE 7708-01-M

PENSION BENEFIT GUARANTY CORPORATION**Payment of Premiums****AGENCY:** Pension Benefit Guaranty Corporation.**ACTION:** Guidelines on premium due dates.

SUMMARY: This notice describes the new premium rates and related rules for single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974 and advises contributing sponsors and plan administrators of certain planned revisions in the premium due dates applicable to such plans. (These changes would also affect the premium due dates for multiemployer plans.) The Pension Protection Act, a part of the Omnibus Budget Reconciliation Act of 1987, establishes a new premium structure for covered single-employer plans that is effective with respect to plan years beginning after December 31, 1987. Under the new rules, the premium includes a flat per capita assessment (as under prior law), plus an additional assessment based on the value of a plan's unfunded vested benefits. Because the variable rate portion of the premium is based upon a plan's unfunded vested benefits, the Pension Benefit Guaranty Corporation has determined that it would be unduly burdensome and costly to require plans to pay this portion of the premium by the due dates established in the premium regulation (for plans with 500 or more participants, the last day of the second month following the close of the prior plan year, and for smaller plans, the last day of the seventh month following the close of the prior plan year). Accordingly, in another document in this issue of the *Federal Register*, plan sponsors and plan administrators (of both single-employer and multiemployer plans) are advised of the suspension of certain of the premium due dates for plan years beginning on or after January 1, 1988.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT: Patrick Devereux, Corporate Policy and Research Department [Code 35100], Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; 202-778-8850 (202-778-8859 for TTY and TDD only.) (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203 (the "Budget Act"), includes the Pension Protection Act, which amends the pension plan funding

and plan termination and related provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). One of the major changes under the law is in the premium rules applicable to single-employer plans covered under Title IV of ERISA. Under section 9331 of the Budget Act, the premiums paid to the Pension Benefit Guaranty Corporation ("PBGC") for single-employer plans will be composed of a flat per capita assessment (as under prior law) (Budget Act section 9331(a)) and a variable rate assessment based on the value of a plan's unfunded vested benefits (section 9331(b)). The amount of the per capita assessment is raised to \$16 per participant (amended ERISA section 4006(a)(3)(A)(i)); the variable rate assessment (which is also determined on a per participant basis) is \$6 for each \$1,000 (or fraction thereof) of unfunded vested benefits divided by the number of plan participants (amended ERISA section 4006(a)(3)(E)(i) and (ii)). The variable rate portion of the premium may in no event exceed \$34 per participant. (This ceiling is further reduced for plans with respect to which the contributing sponsor has made the maximum deductible contributions (under Internal Revenue Code section 404) during at least one plan year of the five plan years immediately preceding the effective date of the new premium rules (section 4006(a)(3)(E)(iv)(II)). The new premium rates apply for plan years beginning after December 31, 1987.

Finally, the Budget Act (in section 9331(c)) also expands liability for the payment of premiums by providing that a plan's contributing sponsor and each member of the contributing sponsor's controlled group are jointly and severally liable for premiums required to be paid by the contributing sponsor.

The procedures (including due dates) for the payment of premiums are established by the PBGC pursuant to ERISA section 4007(a). Under its payment of premiums regulation (29 CFR Part 2610), the premium owed for a plan year is based on the participant count for the prior plan year. The premium due date for large plans, i.e., those with 500 or more participants, is the last day of the second month following the close of the prior plan year. (Thus, for a calendar year plan, the 1988 premium is based on the participant count for 1987 and is due by February 29, 1988.) However, because an accurate participant count for the prior plan year is frequently not available by the due date, large plans may also make a reconciliation filing (paying an additional amount or requesting a refund of an overpayment) no later than the last day of the seventh

month following the close of the prior plan year. For small plans—those with fewer than 500 participants—the premium is due by the last day of the seventh month following the end of the prior plan year.

This payment schedule is not well-suited to the new variable rate assessment. Calculation of the variable rate portion of the premium requires a determination of a plan's unfunded vested benefits for the prior plan year. In order to avoid making plans obtain a special actuarial valuation for this purpose, the PBGC has instead decided to permit plans to use the data used in preparing the Form 5500. (It is noted that the unfunded vested benefits figure used for premium purposes will generally be different from that reported on the 5500, Schedule B, because, *inter alia*, a different interest rate will be used.) In order to make this possible, it is necessary to revise the premium payment schedule to conform to the Form 5500 filing date used by many plans.

In considering modifications to the premium payment schedule, the PBGC was also mindful of its obligation under Title IV of ERISA "to maintain premiums established . . . under section 4006 at the lowest level consistent with carrying out [the PBGC's] obligations under this title" (ERISA section 4002(a)(3)). On this basis, the PBGC concluded that the deferral of the premium due dates is only warranted when it results in significant savings in administrative costs for the public or the PBGC. Therefore, at present the PBGC has decided that it would not be appropriate to revise the current premium due dates for larger plans with respect to the \$16 per capita premium charge. Paying this portion of the 1988 premium entails no greater administrative costs than such plans incurred in prior years, while retaining the economic benefit for the PBGC and other premium payors of the current premium due date for large plans.

In order to revise the premium due dates to better accommodate the new variable rate portion of the premium, the PBGC will undertake a rulemaking to amend the premium regulation. This notice, however, advises plan sponsors and administrators of certain interim steps the PBGC is taking to effectuate such revision and to provide some guidance with respect to the new rules being considered by the PBGC.

Accordingly, the PBGC hereby advises contributing sponsors and plan administrators of large plans (500 or more participants) that for plan years

beginning on or after January 1, 1988, the per capita portion of the premium continues to be due in accordance with the existing rule in § 2610.3(a)(6)(ii); that due date is suspended with respect to the variable rate portion of the premium. The due date for any reconciliation of the per capita portion is similarly suspended. For plans with fewer than 500 participants, the due date for the entire premium (set forth in § 2610.3(a)(6)(i)) is suspended. The PBGC currently contemplates changing all of the foregoing due dates that are suspended to the date 8½ months after the close of the prior plan year.¹

For new plans or plans newly covered under Title IV, and for plans for which the plan year that began in 1987 was a short plan year, the PBGC is also suspending the due dates for the initial premium payment and the 1988 premium payment, respectively. For a plan for which the first plan year beginning after December 31, 1987 is a short plan year, the due dates applicable to large plans and small plans, as modified herein, would continue to apply (§ 2610.3(a)(8)). The amended regulation will provide additional guidance to all such plans.

The PBGC plans to make parallel changes to the premium due dates for multiemployer plans. Although the new

premium rate structure does not apply to multiemployer plans, it would be more costly for the PBGC to administer different payment schedules for multiemployer and single-employer plans. Therefore, with respect to multiemployer plans for plan years beginning after December 31, 1987, the PBGC is suspending each payment due date under § 2610.3 that is seven months after the close of the prior plan year; the two-month deadline generally applicable to large plans is not affected.

The PBGC recognizes that the public has many questions concerning the new variable rate premium, and the PBGC is committed to responding to those questions as fully and promptly as possible. The PBGC is still developing many of the details of the new rules. The PBGC can provide some guidance, however, on the valuation of vested benefits for premium purposes.

Under amended ERISA section 4006 (a)(3)(E)(iii)(II), vested benefits are valued using an interest rate equal to 80% of the annual yield on 30-year Treasury securities for the month preceding the first month of the plan year for which the premium is being paid. The PBGC contemplates using for this 30-year yield the interest rate for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 or H.15.

In calculating unfunded vested benefits, the value of plan assets is

subtracted from the value of vested benefits. The PBGC currently plans to permit the use, for the purpose of this calculation, of the actuarial value of the plan assets held in the trust without reducing this value by the credit balance (if any) in the funding standard account. This reduction has significance only for purposes of the minimum funding standards, and it would unduly increase the amount of unfunded vested benefits, thus increasing the variable rate portion of the premium.

Along with revising the premium regulation, the PBGC will also revise the PBGC Form 1, Annual Premium Payment. The PBGC intends to issue the amended regulation and from in time to enable plan sponsors and administrators to calculate and pay 1988 premiums in accordance with the new due dates to be established. (A new short form for large plans to use with their initial payment of the \$16 per capita charge is being sent out by the PBGC this week.) As noted above, the amended regulation will set forth new payment due dates, as well as the specific rules for determining unfunded vested benefits for premium calculation purposes.

Issued in Washington, DC, the 20th day of January, 1988.

Kathleen P. Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.

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¹ The PBGC would use an 8½ month deadline because, in practice, that is the Form 5500 filing deadline for many plans.

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