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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5905 of November 7, 1988

National Craniofacial Awareness Week, 1988

By the President of the United States of America

A Proclamation

Craniofacial conditions of some kind affect approximately 465,000 people in the United States each year. Hereditary and congenital conditions such as Down Syndrome and cleft lip and palate are the leading reasons for facial disfigurement. Hundreds of thousands of others suffer facial disfigurement from cancer. Advanced medical technology can save people who might otherwise die from accidents or burns, but their faces remain affected. People with craniofacial conditions often experience emotional isolation and rejection and live in seclusion from society.

Now, various foundations and institutions are addressing their needs. They have begun to fund programs for research and education regarding craniofacial conditions, to initiate the funding of surgical and nonsurgical treatment for people from our country and around the world, and to seek people who can be helped.

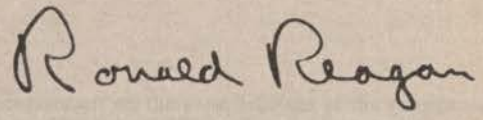
Mutual support organizations now forming are dedicated to helping the facially disfigured, their families, and the professionals who care for them. Through newsletters and computer linkages, people throughout our Nation offer shared experiences and resources for recovery. These praiseworthy mutual support groups encourage people to esteem the person behind every face.

Because of the difficulties of looking "different," it is important that the public understand the exceptional challenges confronting people with craniofacial conditions. Personal and community outreach efforts to befriend and assist these people deserve our cooperation, participation, and recognition.

The Congress, by House Joint Resolution 573, has designated the week of November 13 through November 19, 1988, as "National Craniofacial Awareness Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of November 13 through November 19, 1988, as National Craniofacial Awareness Week. I call upon the people of the United States and concerned organizations to observe that week with appropriate programs, ceremonies, and activities that foster awareness about craniofacial conditions and the continuing efforts to lessen the suffering of people afflicted.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of November, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.



[FR Doc. 88-26215
Filed 11-8-88; 3:06 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12655 of November 7, 1988

Establishing an Emergency Board To Investigate a Dispute Between the Port Authority Trans-Hudson Corporation and Certain of Its Employees Represented by the Transportation Communications Union-Carmen Division

A dispute exists between the Port Authority Trans-Hudson Corporation and certain of its employees represented by the Transportation Communications Union-Carmen Division.

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended (the "Act").

A party empowered by the Act has requested that the President establish an emergency board pursuant to Section 9A of the Act (45 U.S.C. Section 159a).

Section 9A(e) of the Act provides that the President upon such a request, shall appoint an emergency board to investigate and report on the dispute.

NOW, THEREFORE, by the authority vested in me by Section 9A of the Act, it is hereby ordered as follows:

Section 1. *Establishment of Board.* There is established, a board of three members to be appointed by the President to investigate this dispute. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier. The board shall perform its functions subject to the availability of funds.

Sec. 2. *Report.* Within 30 days after creation of the board, the parties to the dispute shall submit to the board final offers for settlement of the dispute. Within 30 days after submission of final offers for settlement of the dispute, the board shall submit a report to the President setting forth its selection of the most reasonable offer.

Sec. 3. *Maintaining Conditions.* As provided by Section 9A(h) of the Act, from the time a request to establish a board is made until 60 days after the board makes its report, no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

Sec. 4. *Expiration.* The board shall terminate upon the submission of the report provided for in Section 2 of this Order.

Ronald Reagan

THE WHITE HOUSE,
November 7, 1988.

[FR Doc. 88-26216
Filed 11-8-88; 3:07 pm]
Billing code 3195-01-M

Editorial note: For a White House announcement on the establishment of the emergency board, dated Nov. 7, see the *Weekly Compilation of Presidential Documents* (vol. 24, no. 45).

Rules and Regulations

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

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 70, and 73

Safeguards Requirements for Fuel Facilities Possessing Formula Quantities of Strategic Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its physical protection and security personnel performance regulations and its design basis threat for fuel facilities possessing formula quantities of strategic special nuclear material (SSNM) to require protection equivalent to that in place at comparable Department of Energy (DOE) fuel facilities. These changes have been prompted by a recent study that compared NRC's security requirements for SSNM with DOE's recently upgraded security system. The changes are also supported by findings from reviews of safeguards event reports, Regulatory Effectiveness Reviews, and inspection reports. The amendments provide greater assurance that physical protection measures at these fuel facilities can protect against theft.

EFFECTIVE DATE: December 12, 1988.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra Frattali, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3773; or Kristina Z. Jamgochian, Division of Safeguards and Transportation, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–0360.

SUPPLEMENTARY INFORMATION:

Background

In 1974, a national goal was established that nuclear weapons-usable material, whether in the licensed or license-exempt sector, should receive fully adequate and essentially comparable levels of protection. The objective of providing comparable protection for SSNM has been reiterated in a number of subsequent communications by the National Security Council, Energy Research and Development Administration (now DOE), Department of Defense, and NRC. In consonance with this objective, reviews have been conducted periodically by joint NRC/DOE review teams. The findings from the most recent review (1986) indicated that DOE has placed increased emphasis on guard weaponry, training, and tactical response exercises and has upgraded some physical security measures. To maintain comparability with DOE as well as to respond to recent NRC security reviews, the NRC is amending its physical protection regulations for licensed fuel facilities possessing formula quantities of SSNM. These facilities are: General Atomics, La Jolla, California; Nuclear Fuel Services, Erwin, Tennessee; Babcock and Wilcox, Lynchburg, Virginia; and United Nuclear Corporation, Montville, Connecticut. Although the Fort St. Vrain reactor (Colorado) uses high enriched uranium fuel, it is not subject to these upgrades because of the extensive processing required to yield weapons usable material and because of the weight of the fuel elements and their low concentration of uranium. Pursuant to 10 CFR 73.5, the Commission will initiate an exemption from the new requirements for Fort St. Vrain. These amendments will provide greater assurance that security systems and security force capabilities at these facilities are comparable to those used by DOE. A remaining comparability issue relates to the use of deadly force by licensee guards. This issue is being addressed separately and is not covered by these amendments.

On December 31, 1987, the NRC published in the **Federal Register** (52 FR 49418) a proposed rule for upgrading safeguards requirements for licensed fuel facilities possessing formula quantities of SSNM. The upgrades called for: (1) Security system performance evaluation through tactical response exercises, (2) night firing qualification for guards using all assigned weapons, (3) search of 100 percent of entering personnel and packages (for explosives, firearms, and incendiary devices), (4) posting of armed guards at MAA control points, (5) providing two separate physical personnel barriers around the protected area, and (6) revision of the design basis threat at these fuel facilities to include land vehicle use by adversaries attempting to commit theft and require the implementation of countermeasures to prevent forcible vehicle entry into the protected area. The comment period ended on March 30, 1988.

Summary of Public Comment

Letters of comment were received from six respondents: four from fuel facility licensees, one from DOE, and one from a manufacturer of fences who submitted specifications on a type of security fence but did not comment on the rule itself. Copies of comment letters are available for public inspection and copying for a fee at the NRC Public Document Room at 2120 L Street NW., Lower Level, Washington, DC.

A summary of the public comments and their resolution follows. The comments are organized in the following categories:

1. Performance Evaluation Through Tactical Response Exercises and Tactical Response Teams (TRT);
2. Guard Force Weaponry;
3. Personnel, Package, and Material Entrance Search;
4. Protected Area Physical Barriers.

1. Performance Evaluation Through Tactical Response Exercises and Tactical Response Teams

Under the proposed rule, affected licensees would conduct tactical response exercises for each guard force shift on a quarterly basis. The exercises would demonstrate the guard force state of readiness and test the effectiveness of delay mechanisms, alarm and communication systems, response times, deployment of response forces, firing skills (simulated), and tactical maneuvers. The results would be used to determine whether additional training or security system improvements are needed. The exercises are not intended to be viewed in terms of "pass" or "fail."

The quarterly exercises could be of short duration, would have at least one exercise per guard shift, and would cumulatively represent the various lighting conditions during a 24-hour day. Each year, at least two of the quarterly exercises for each shift would include force-on-force scenarios. Also proposed was an additional, more extensive annual exercise to be observed by NRC representatives that would include force-on-force scenarios.

One letter of comment stated that quarterly exercises are more frequent than necessary and requested a reduction in the number of exercises to one per shift every four months. Another respondent requested that ther NRC observe one of the quarterly force-on-force exercises rather than have the licensee conduct a special annual exercise. A third respondent requested clarification of the number of exercises and how much prior notice the NRC needed before the NRC-observed annual exercise.

The NRC staff accepts that a routine of 13 exercises per year, seven of which are force-on-force (based on a three-shift operation, one exercise per shift per quarter, plus one annual exercise) can, over time, become less effective due to their frequent repetition and reduced learning curve. Therefore, this final rule is being modified to require a licensee, during the first year of rule implementation, to conduct a total of 12 exercises (one exercise per quarter per shift), half of which are to be force-on-force. The NRC will observe one of the quarterly force-on-force exercises and will not require an additional annual exercise. This reduces the number of exercises during the first year of compliance to 12 for a three-shift operation. During the second year and each year thereafter, licensees will be required to conduct nine exercises per year (one exercise per shift every four months), one-third of which will be force-on-force, with the NRC observing one of the force-on-force exercises. The NRC is to be notified 60 days prior to an NRC-observed, force-on-force exercise so that possible scheduling conflicts can be resolved.

This final rule requires licensees to establish a designated TRT and replaces the current general requirement for an armed response force. Creation of TRT's is expected to provide more highly motivated, professional, and effective organizations to respond to and prevent forceful attempts to remove SSNM from licensee sites. This rule also requires that TRT members have individually assigned, upgraded weaponry and an item of uniform distinctive and different from that of the guard force (e.g., cap, armband, etc.).

One licensee objected to the NRC replacing the term "armed response personnel" with "Tactical Response Team". This licensee believed that it should not be restricted in selection of a title, since the title/designation of its response force is changed periodically for security purposes. The NRC does not object to a licensee using different code names or changing code names for its TRT. When amending the security plan, however, a licensee shall use the term "Tactical Response Team".

This licensee also objected to the proposed requirement that TRT members have a distinctive item of uniform. It was the licensee's experience that fostering a spirit of elitism among a small group of individuals within the security force often only serves to create a schism and affects morale unfavorably. The NRC accepts that the establishment of the TRT could have unfavorable effects on the morale of some personnel as foreseen by the licensee. However, these negative factors, if indeed they develop, are far less important than the need for a highly effective response capability. Moreover, an elite group within the guard force need not be viewed negatively by the remaining guard force if presented properly. All members of a security force could be eligible to qualify as TRT members (as opposed to being singled out by the licensee). Ideally, if all members of the security force qualify as TRT members, they can be rotated through the schedule on an equal basis, thereby alleviating the concern of creating a separate elitist group and making shift scheduling easier.

The licensee was also concerned that a distinctive item of uniform could single out TRT members to an adversary. The NRC accepts this as a valid concern. However, the distinctive item could be small, such as a pin or badge, and not noticeable at a distance.

Under the proposed amendment, TRT members and guards who are eligible to be TRT members would have to successfully complete training in response tactics. The training would be in addition to the individual training currently required in Appendix B to Part 73. No specific criteria or standards for the training in response tactics were provided with the proposed rule. A licensee respondent suggested that the NRC should establish minimum standards but that the standards or criteria should be adaptable to site-specific situations.

The NRC agrees with this suggestion. A Tactical Training Manual has been developed for licensee use. The material can be adapted and used under a variety of conditions and circumstances. The manual provides viable approaches for licensees to use in structuring site-specific tactical response training programs.

2. Guard Force Weaponry

Under the proposed rule, all TRT members would be armed with 9mm semiautomatic pistols. Many major city law enforcement agencies, SWAT teams, and the U.S. military are shifting from revolvers to semiautomatic pistols in order to take advantage of sustained fire capability. These police upgrades respond to increased encounters with adversaries using more sophisticated weapons. After conducting a literature review and discussing with various agencies their rationale for converting from revolvers to semiautomatic pistols, the NRC included in the proposed amendments a requirement for TRT members only (not other security force personnel) to be armed with 9mm semiautomatic pistols.

The Commission explicitly solicited public comment on the requirement for equipping TRT members with semiautomatic pistols and on whether the final choice of weapons should be left to the licensee. Only one response (from a licensee) was received. It stated that the choice of weapon and caliber of weapon should be left to the individual licensee. This licensee believes that the NRC if justifying the requirement for a 9mm semiautomatic pistol on the faulty conclusions (1) that greater firepower (increased availability of rounds) equates with an enhanced ability to hit the target, and (2) that the 9mm's larger magazine (up to 15 rounds) and more rapid action allows for faster discharge of rounds and increased hit probability. The licensee also stated that certain types of revolvers could be equally justified and that after an in-depth evaluation of weapons and ammunition currently available, each licensee could best determine which meet the requirements of the site.

The NRC's rationale for the requirement is based on the advantages of the weapon. The 9mm has less recoil than revolvers currently used, making it easier to control, and thereby allowing increased accuracy. In light of the growing worldwide trend among the criminal element toward the adoption of sophisticated automatic and semiautomatic weaponry, the 9mm provides added firepower considered necessary while maintaining the necessary high degree of reliability and accuracy. Additionally, the

semiautomatic pistol is easier to load in the dark, in the cold, or when one is under stress. In the event adversaries armed with semiautomatic weapons attack a facility where TRT members are equipped with standard six-round revolvers, the TRT responders would need to reload ammunition long before the opponents would. During reloading, TRT responders could be exposed to deadly fire without defense. The ability to sustain fire is of major importance. This final rule requires that all TRT members be equipped with 9mm semiautomatic pistols, with qualification and annual requalification in both day and night firing courses. The choice of model and manufacturer is left to the licensee.

The proposed rule required each TRT member be armed with a shoulder fired weapon, and at least one TRT member carry a .30 caliber or 7.62mm rifle. The requirement for a heavier rifle would provide additional effectiveness against the use of land vehicles, which is now included in the design basis threat.

Letters of comment on this issue were received from two licensees. One licensee did not agree with the large caliber weapon requirement and recommended that this option be left up to the licensee. The licensee asserted that a rifle of .30 caliber or 7.62mm will not immediately stop a vehicle and if that was NRC's intent, then nothing less than a .50 caliber heavy machine gun would be needed. A second licensee requested an exemption from this requirement due to the configuration and limited size of its facility. This licensee was concerned about various problems due to the proximity of high population areas and public reaction and, therefore, believed it unnecessary and dangerous to arm TRT members with large caliber rifles.

The requirement that one TRT member carry a rifle of at least .30 caliber or 7.62mm is retained in the final rulemaking. The Commission believes that additional capability should be available to defend against adversaries in a vehicle attempting to penetrate a protected area boundary. The intent of this requirement is not to stop the vehicle immediately, but to disable adversaries inside the vehicle. Any site-specific considerations that licensees may have once this final rulemaking is effective should be dealt with on an individual basis through appropriate procedures.

Under the proposed rule, TRT members on duty would be required to carry their individually assigned shotgun or semiautomatic rifle, with one member carrying the .30 caliber or 7.62mm weapon. Two licensee respondents believed that the weapons need not be carried but should be readily available i.e., kept a strategic locations throughout the facility. Both respondents noted that there were times when carrying shoulder fired weapons was not practical and were concerned about the safety hazard involved should the weapon have to be laid down (i.e., lunch, restrooms). Additional concerns were that the weapons may be functionally abused during the TRT members normal activities of climbing ladders and maneuvering through close areas, or contaminated should the weapon have to be laid down while performing searches in material access areas.

The requirement for TRT members to carry their assigned shoulder fired weapons while on duty is included in this final rule. The requirement "to carry" is not to be interpreted to mean "hand carry" but to be on the person as in a shoulder sling. The normal duties of a TRT member should permit immediate response and, therefore, should not include routine searches at material access areas. Likewise, while on lunch break, the TRT member should be relieved by another TRT-qualified security officer in order to avoid the need to lay the weapon down. The main rationale for TRT members to carry their assigned weapons is to permit immediate response. In the event of an adversary attack the timely delay caused by retrieving weapons from strategically located repositories could have an adverse impact on the successful containment of the adversaries.

3. Personnel, Package, and Material Entrance Search

Under the proposed amendments, search for explosives, firearms, and incendiary devices would be required of 100 percent of entering personnel and packages except for Federal, State, and local law enforcement personnel on official duty. Also, under the proposed amendments, present exemptions would continue for those delivery and inspection activities specifically designated by the licensee and approved by the Commission to be carried out within material access, vital, or protected areas for reasons of safety, security, or operational necessity.

One licensee respondent recommended that "Q" cleared armed security officers should be included in the exemption based on the fact that it could see no benefit in performing a prohibited article search on a security officer overtly carrying a weapon. In response, it is pointed out that of concern to the NRC is the issue of an insider attempting to introduce not only firearms, but also explosives and incendiary devices inside a protected area. Under this criterion, although a security officer displays an authorized handgun, searching the officer for explosives, incendiary devices, and unauthorized weapons is still necessary before the officer enters a protected area. Accordingly, the proposed search requirement is retained unchanged in the final rule.

4. Protected Area Physical Barriers

Under the proposed rule, the perimeter of the protected area of a fuel facility possessing formula quantities of SSNM would be required to have a double physical personnel barrier. The two barriers would be constructed and installed primarily to ensure the ability to assess an attempted penetration of the protected area perimeter at the time of the occurrence and secondarily to delay attempts of unauthorized exit from the protected area. The present intrusion detection systems required by NRC would be located between these two barriers.

In the sole letter of comment regarding the proposed requirement, DOE recommended that the proposed changes be deferred until a performance analysis of the existing security system has been completed and the need for change has been determined. In its detailed comments, DOE stated that two perimeter fences are not a DOE requirement and that double fences, where they have been installed, are installed on the basis of the overall performance of all security systems at these sites. DOE pointed out that only very limited adversary delay time is provided by a perimeter fence, and the potential of a second perimeter barrier is realized only if designed to enhance assessment. Relative to the intrusion detection system, DOE proposed revising the requirment to call for optimum use of the present systems and leaving the systems in their current locations until an evaluation of the usefulness of these present systems through a performance exercise is made.

The NRC recognizes that DOE has not established a generic requirement for two perimeter fences. However, all DOE facilities reviewed by the NRC/DOE Comparability Review Group do have double perimeter barriers. The NRC believes that the performance standards achieved at these DOE facilities, which are met in part by double fences, should be provided at comparable NRC-licensed facilities.

In guidance to affected licensees NRC makes clear that the intrusion detection

system and the inner barrier are to be positioned and constructed to assure adequate delay after an intruder triggers an alarm. The delay must be sufficient to permit a defender to determine positively whether the triggering was due to an intruder. The interrelationship of the perimeter intrusion detection system and the double barriers is so close that it is essential to treat improvements to them simultaneously. Therefore, it is necessary for the overall performance of the protection system that the double barrier system and intrusion detection system locations (and possible reinstallation) be designed in concert. For these reasons, the barrier requirement is retained in the final rule.

Other Changes: Weapons Qualification

These amendments require night firing qualification and annual requalification by the security force and TRT members with all weapons assigned to them. This revises the current requirement for night familiarization firing only. Specified courses (included in Appendix H) for qualification and annual requalification with revolvers, shotguns, and rifles are added as requirements in this final rulemaking. Licensees may develop and sumibt for NRC approval a qualification course for day firing for 9mm semiautomatic pistols which TRT members must now carry. Additionally, licensees may also substitute shoulder firing for hip firing for the day shotgun qualification course contained in Appendix B to Part 73 and reflect this change in their amended security plan. Licensees are required to retain the documentation of each qualification and requalification as a record for three years after each qualification and requalification. Microfilm documents are acceptable.

Implementation

Currently, under conditions of license, licensees carry out certain of the measures called for in the amendments, namely: (1) Search of 100 percent of personnel and packages admitted to the protected area, (2) posting of armed guards at MAA control points, and (3) night firing qualification for guards using all assigned weapons. Under the new amendments, each licensee will modify its physical security plan to show how all of the new requirements would be carried out and will submit the plan to the NRC for approval within 180 days after the effective date of these amendments. The license conditions listed earlier will be withdrawn at the time that the corresponding commitments in the approved plan become effective. The licensee will carry out the various additional new commitments not already implemented by license conditions in the approved plan commencing at various dates, ranging from 30 to 365 days after NRC approval of the plan.

Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. These amendments affect neither the safety of operation nor the routine of, or exposure to, radioactivity from fuel facilities possessing formula quantities of SSNM. Their only intent is to provide greater protection against the revised design basis threat and thus reduce the risks of theft of SSNM from these facilities. Of the six measures proposed, three have no identifiable environmental impact; namely, initiation of security system performance evaluations through tactical team exercises, night firing qualification of guards using all assigned weapons, and posting of armed guards at MAA control points. The 100 percent search of entering personnel and packages would require installation of additional walk-through detection equipment which likely would require construction activities to expand or modify the existing building in which this equipment is located. The requirement regarding protected area personnel barriers would necessitate construction, on the licensee's property, of a second barrier. Finally, the installation of structures to prevent forcible vehicle entry would likely require the deployment of vehicle barriers which would be installed on the licensee's property at or near the protected area boundary at points accessible to vehicles. These construction activities at four current licensee sites and at any sites of future fuel facility licensees who require possession of formula quantities of SSNM are considered to have a minor impact on the environment and support a finding that the final rule involves no significant environmental impact. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW., Lower Level, Washington, DC 20555. Single copies of the environmental assessment and finding of no significant impact are available from Dr. Sandra D. Frattali, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3773.

Paperwork Reduction Act Statement

This rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget under approval number 3150–0002.

Public reporting burden for this collection of information is estimated to average 2.2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to The Records and Reports Management Branch, Mail Stop P–530, Division of Information Support Services, IRM, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this rule. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW., Lower Level, Washington, DC 20555. Single copies of the analysis may be obtained from Dr. Sandra D. Frattali, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3773.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule does not have a significant economic impact upon a substantial number of small entities. The rule affects four licensees who operate fuel facilities possessing formula quantities of SSNM under 10 CFR Parts 70 and 73. They are GA Technologies Inc., La Jolla, California; Nuclear Fuel Services, Erwin, Tennessee; Babcock & Wilcox, Lynchburg, Virginia; and United Nuclear Corporation, Uncasville, Connecticut. The companies that own these plants

are dominant in their service areas and do not fall within the scope of the definition of small entities set forth in section 605(b) of the Regulatory Flexibility Act of 1980 or within the definition of Small Business size standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, a backfit analysis is not required since these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 70

Hazardous materials-transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 73

Hazardous materials-transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

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. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 2, 70, and 73.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Appendix C—[Amended]

2. In Appendix C of Part 2, footnote 10 to Supplement III is revised to read "[10] See 10 CFR 73.2 for the definition of 'formula quantity.' "

3. In Appendix C of Part 2, footnote 11 to Supplement III is revised to read "[11] See 10 CFR Part 73.2 for the definition of 'special nuclear material of moderate strategic significance.' "

4. In Appendix C of Part 2, footnote 12 to Supplement III is revised to read "[12] See 10 CFR Part 73.2 for the definition of 'special nuclear material of low strategic significance.' "

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

5. The authority citation for Part 70 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 70.22 [Amended]

6. In § 70.22 paragraph (k) is amended by revising "as defined under § 73.2 (x) and (y) of this chapter" to read "as defined under § 73.2 of this chapter."

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

7. The authority citation for CFR Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) is also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 73.21, 73.37(g), and 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, and 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1), 73.26 (b)(3), (h)(6), and (k)(4), 73.27 (a) and (b), 73.37(f), 73.40 (b) and (d), 73.46 (g)(6) and (h)(2), 73.50 (g)(2), (3)(iii)(B), and (h), 73.55 (h)(2) and (4)(iii)(B), 73.57, 73.70, 73.71, and 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

8. In § 73.1, paragraph (a)(2)(i) is revised to read as follows:

§ 73.1 Purpose and scope.

(a) * * *

(2) Theft or diversion of formula quantities of strategic special nuclear material.

(i) A determined, violent, external assault, attack by stealth, or deceptive actions by a small group with the following attributes, assistance, and equipment:

(A) Well-trained (including military training and skills) and dedicated individuals;

(B) Inside assistance that may include a knowledgeable individual who attempts to participate in a passive role (e.g., provide information), an active role (e.g., facilitate entrance and exit, disable alarms and communications, participate in violent attack), or both;

(C) Suitable weapons, up to and including hand-held automatic weapons, equipped with silencers and having effective long-range accuracy;

(D) Hand-carried equipment, including incapacitating agents and explosives for use as tools of entry or for otherwise destroying reactor, facility, transporter, or container integrity or features of the safe-guards system;

(E) Land vehicles used for transporting personnel and their hand-carried equipment; and

(F) the ability to operate as two or more teams.

* * * * *

9. In § 73.2, remove all alphabetical designators and place all definitions in alphabetical sequence; paragraph (1) of the definition of "Special nuclear material of low strategic significance" is amended by removing "§ 73.2(x)(1)" and inserting "paragraph (1) of the definition of strategic nuclear material of moderate strategic significance set out in this section;" insert new definition, "Tactical Response Team," in proper alphabetical sequence; and revise the definition for "Physical Barrier" to read as follows:

§ 73.2 Definitions.

* * * * *

"Physical Barrier" means: (1) Fences constructed of No. 11 American wire gauge, or heavier wire fabric, topped by three strands or more of barbed wire or similar material on brackets angled inward or outward between 30° and 45° from the vertical, with an overall height of not less than 8 feet, including the barbed topping; (2) building walls, ceilings and floors constructed of stone, brick, cinder block, concrete steel or comparable materials (openings in which are secured by grates, doors, or covers of construction and fastening of sufficient strength such that the integrity of the wall is not lessened by any opening), or walls of similar construction, not part of a building, provided with a barbed topping described in paragraph (1) of this definition of a height of not less than 8 feet; or

* * * * *

"Tactical Response Team" means the primary response force for each shift which can be identified by a distinctive

item of uniform, armed with specified weapons, and whose other duties permit immediate response.

* * * * *

10. In § 73.46, paragraphs (b)(3)(i), (b)(4), (b)(6), (c)(1), (d)(4)–(6), (d)(9), and (h)(3) are revised and paragraphs (b)(7)–(9) and (i) are added to read as follows:

§ 73.46 Fixed site physical protection systems, subsystems, components, and procedures.

* * * * *

(b) *Security organization.* * * *

(3) * * *

(i) Written security procedures which document the structure of the security organization and which detail the duties of the Tactical Response Team, guards, watchmen, and other individuals responsible for security. The licensee shall retain a copy of the current procedures as a record until the Commission terminates the license for which these procedures were developed and, if any portion of these procedures is superseded, retain the superseded material for three years after each change; and

(4) The licensee may not permit an individual to act as a guard, watchman, Tactical Response Team member, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security duty in accordance with Appendix B of this part, "General Criteria for Security Personnel." In addition, guards and Tactical Response Team members shall be trained, equipped, and qualified in accordance with paragraphs (b)(6) and (b)(7) of this section. Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel, whether licensee or contractor employees, to carry out their assigned duties and responsibilities. Each guard, watchman, Tactical Response Team member, or other member of the security organization, whether a licensee or contractor employee, shall requalify in accordance with Appendix B of this part, and , for guards and Tactical Response Team members, in accordance with paragraph (b)(7) of this section, at least every 12 months. The licensee shall document the results of the qualification and requalification. The licensee shall retain the documentation of each qualification and requalification as a record for three years after each qualification and requalification.

* * * * *

(6) Each guard shall be armed with a handgun, as described in Appendix B of this part. Each Tactical Response Team member shall be armed with a 9mm semiautomatic pistol. All but one member of the Tactical Response Team shall be armed additionally with either a shotgun or semiautomatic rifle, as described in Appendix B of this part. The remaining member of the Tactical Response Team shall carry, as an individually assigned weapon, a rifle of no less caliber than .30 inches or 7.62mm.

(7) In addition to the qualification criteria of Appendix B of this part, guards and Tactical Response Team members shall qualify and requalify annually for night firing with assigned weapons in accordance with Appendix H of this part. The licensee or the licensee's agent shall document the results of weapons qualification and requalification for night firing. The licensee shall retain the documentation of each qualification and requalification as a record for three years after each qualification and requalification.

(8) In addition to the training requirements contained in Appendix B of this part, Tactical Response Team members shall successfully complete training in response tactics. The licensee shall document the completion of training. The licensee shall retain the documentation of training as a record for three years after training is completed.

(9) The licensee shall conduct Tactical Response Team and guard exercises to demonstrate the overall security system effectiveness and the ability of the security force to perform response and contingency plan responsibilities and to demonstrate individual skills in assigned team duties. During the first 12-month period following the date specified in paragraph (i)(2)(ii) of this section, an exercise must be carried out at least every three months for each shift, half of which are to be force-on-force. Subsequently, during each 12-month period commencing on the anniversary of the date specified in paragraph (i)(2)(ii) of this section, an exercise must be carried out at least every four months for each shift, one third of which are to be force-on-force. The licensee shall use these exercises to demonstrate its capability to respond to attempts to steal strategic special nuclear material. During each of the 12-month periods, the NRC shall observe one of the force-on-force exercises which demonstrates overall security system performance. The licensee shall notify the NRC of the scheduled exercise 60 days prior to that exercise. The licensee shall document the results of all exercises. The licensee shall retain the documentation of each exercise as a record for three years after each exercise is completed.

(c) *Physical barrier subsystems.* (1) vital equipment must be located only within a vital area, and strategic special nuclear material must be stored or processed only in a material access area. Both vital areas and material access areas must be located within a protected area so that access to vital equipment and to strategic special nuclear material requires passage through at least three physical barriers. The perimeter of the protected area must be provided with two separated physical barriers with an intrusion detection system placed between the two. The inner barrier must be positioned and constructed to enhance assessment of penetration attempts and to delay attempts at unauthorized exit from the protected area. The perimeter of the protected area must also incorporate features and structures that prevent forcible vehicle entry. More than one vital area or material access area may be located within a single protected area.

* * * * *

(d) *Access control subsystems and procedures.*

* * * * *

(4)(i) The licensee shall control all points of personnel and vehicle access into a protected area. Identification and search of all individuals for firearms, explosives, and incendiary devices must be made and authorization must be checked at these points except for Federal, State, and local law enforcement personnel on official duty and United States Department of Energy couriers engaged in the transport of special nuclear material. The search function for detection of firearms, explosives, and incendiary devices must be accomplished through the use of detection equipment capable of detecting both firearms and explosives. The individual responsible for the last access control function (controlling admission to the protected area) shall be isolated within a structure with bullet resisting walls, doors, ceiling, floor, and windows.

(ii) When the licensee has cause to suspect that an individual is attempting to introduce firearms, explosives, or incendiary devices into a protected area, the licensee shall conduct a physical pat-down search of that individual. Whenever firearms or explosives detection equipment at a portal is out of service or not operating satisfactorily, the licensee shall conduct a physical pat-down search of all persons who

would otherwise have been subject to search using the equipment.

(5) At the point of personnel and vehicle access into a protected area, all hand-carried packages except those carried by individuals exempted from personal search under the provisions of paragraph (d)(4)(i) of this part must be searched for firearms, explosives, and incendiary devices.

(6) All packages and material for delivery into a protected area must be checked for proper identification and authorization and searched for firearms, explosives, and incendiary devices prior to admittance into the protected area, except those Commission-approved delivery and inspection activities specifically designated by the licensee to be carried out within material access, vital, or protected areas for reasons of safety, security, or operational necessity.

* * * * *

(9) The licensee shall control all points of personnel and vehicle access to material access areas, vital areas, and controlled access areas. At least two armed guards trained in accordance with the provisions contained in paragraph (b)(7) of this section and Appendix B of this part shall be posted at each material access area control point whenever in use. Identification and authorization of personnel and vehicles must be verified at the material access area control point. Prior to entry into a material access area, packages must be searched for firearms, explosives, and incendiary devices. All vehicles, materials and packages, including trash, wastes, tools, and equipment exiting from a material access area must be searched for concealed strategic special nuclear material by a team of at least two individuals who are not authorized access to that material access area. Each individual exiting a material access area shall undergo at least two separate searches for concealed strategic special nuclear material. For individuals exiting an area that contains only alloyed or encapsulated strategic special nuclear material, the second search may be conducted in a random manner.

* * * * *

(h) *Contingency and response plans and procedures.*

* * * * *

(3) A Tactical Response Team consisting of a minimum of five (5) members must be available at the facility to fulfill assessment and response requirements. In addition, a force of guards or armed response personnel also must be available to provide assistance as necessary. The size and availability of the additional force must be determined on the basis of site-specific considerations that could affect the ability of the total onsite response force to engage and impede the adversary force until offsite assistance arrives. The rationale for the total number and availabiliy of onsite armed response personnel must be included in the physical protection plans submitted to the Commission for approval.

* * * * *

(i) Implementation schedule for revisions to physical protection plans.

(1) By June 12, 1989, each licensee shall submit a revised fixed site physical protection plan to the Commission for approval. The revised plan must describe how the licensee will comply with the requirements of paragraphs (b)(3)(i), (b)(4), (b)(6), (b)(7), (b)(8), (b)((9), (c)(1), (d)(4), (d)(5), (d)(6), (d)(9), and (h)(3) of this section. Revised plans must be mailed to the Director, Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(2) Each licensee shall carry out the new commitments in the revised plan in accordance with the following schedule:

(i) Commencing 30 days after Commission approval of the revised plan for commitments related to paragraphs (b)(3)(i), (d)(4), (d)(5), (d)(6) and (d)(9) of this section.

(ii) Commencing 60 days after Commission approval of the revised plan for commitments related to paragraphs (b)(4), (b)(6), (b)(7), (b)(8), (b)(9) and (h)(3) of this section.

(iii) Commencing 365 days after Commission approval of the revised plan for commitments related to paragraph (c)(1) of this section.

Appendix H—[Amended]

11. A new Appendix H is added to read as follows:

APPENDIX H—MINIMUM QUALIFICATION CRITERIA FOR NIGHT FIRING

Weapon	Stage	Distance	No. Rounds	Timing	Position	Target	Scoring	Lighting
Handgun:								
Revolver	1	7 yds	12	35 sec	Standing—No artificial support.	B-27	Minimum qualifying=70%.	For all courses: 0.2 footcandles at center mass of target area.
	2	15 yds	12	45 sec	do			
Semi-automatic	1	7 yds	2 + clip	30 sec	do		do	
	2	15 yds	2 + clip	40 sec	do			
Shotgun	1	25 yds	2 Rifled slugs	30 sec (Load 2 slugs—chamber empty—Time starts—Commence firing.)	Standing—strong shoulder.	B-27	Rifled-Slug: Hits=strike area on target (10, 9, 7).	
	1	15 yds	5 Double 00 buckshot.	10 sec. (Load 5rds Buckshot—chamber empty—Time starts—Commence firing.)	do	B-27	Double 00 Buckshot: Hits in black=2 pts (5rds x 9 pellets/rd x 2 pts=90 Mimimum qualifying=70%.	
Rifle	1	25 yds	1—5rd mag	45 sec	Standing—Barricade	B-27		
	2	25 yds	1—5rd mag	45 sec	Standing			
	3	25 yds	1—5rd mag	45 sec	Kneeling		Mimimum qualifying=70%.	
	4	25 yds	1—5rd mag	45 sec	Prone			

Note.—All firing is to be done only at night. Use of night simulation equipment during daylight is not allowable. Use of site specific devices (i.e., laser, etc.) should be included in the licensee amended security plan for NRC approval.

Dated at Rockville, MD, this 4th day of November 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-26059 Filed 11-9-88; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 571

[No. 88-1182]

Accounting Policy Relating to Acquisition, Development and Construction Loans

Date: November 2, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Statement of Policy; withdrawal.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is removing its statement of accounting policy relating to acquisition, development and construction ("ADC") arrangements, and consequently terminates the proposed rule issued March 4, 1987. Board Res. No. 87-240, 52 FR 7887 (March 13, 1987). All institutions, the accounts of which are insured by the FSLIC ("insured institutions") or affiliates thereof, should follow generally accepted accounting principles ("GAAP") in classifying and accounting for ADC arrangements in reports or financial statements filed with the Board or the FSLIC. GAAP on ADC arrangements is currently set forth in the "Notice to Practitioners" issued by the American Institute of Certified Public Accountants ("AICPA") and published in the February 10, 1986 issue of the CPA Letter. By this amendment, the Board is reducing the number of documents which insured institutions must consult in determining how to account for transactions. At the same time, the Board continues its longstanding policy that insured institutions should apply the guidance of the accounting profession in determining whether a transaction characterized as an ADC loan is in fact a loan or whether, in substance, it is a real estate investment or a joint venture.

EFFECTIVE DATE: November 10, 1988.

FOR FURTHER INFORMATION CONTACT: Carol H. Larson, Professional Accounting Fellow, (202) 331-4577, Ben F. Dixon, Policy Analyst, (202) 331-4599, Office of Regulatory Activities, 801 17th Street NW., Washington, DC 20006, or Deborah Dakin, Regulatory Counsel, Regulations and Legislation Division, Office of General Counsel, (202) 377-6445, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: In the early 1980's, insured institutions began entering into an increasing number of acquisition, development and construction arrangements. These ADC arrangements may be structured as loans, but the insured institution has virtually the same risks and potential rewards as those of an owner or joint venturer. Because this type of arrangement had not been common previously, clearly-defined accounting literature providing authoritative accounting guidance did not exist. As a result, accounting for ADC arrangements varied widely in practice. This was of particular concern to not only the accounting profession but also the Board, because ADC arrangements were more common among thrift institutions than among commercial banks.

In response, the AICPA's Accounting Standards Executive Committee ("AcSEC"), in November 1983, and the Savings and Loan Committee, in November 1984, issued two notices to practitioners addressing ADC arrangements. Professional Notes, *Guidance on Accounting for Real Estate Acquisition, Development or Construction Loans: Enhancing the Accounting Manual*, Journal of Accountancy, November 1983, at 51; *Notice to Practitioners on ADC Loans*, CPA Letter, November 26, 1984, at 3. In 1985, the Board adopted these notices to practitioners as its accounting policy in this area "to put into regulatory format the accounting guidance that had been developed by the accounting profession and to state that there was *no substantive difference* between the Board's regulatory treatment and GAAP [generally accepted accounting principles]." Board Res. No. 85-291, 50 FR 18233, 18235 (April 30, 1985) (emphasis in original). The Board's statement of policy, codified at 12 CFR 571.17, incorporated both notices, neither of which separately addressed all aspects of ADC arrangements. The Board's regulations continued to provide that except where the Board's regulations specifically required different accounting principles or procedures to be employed, insured institutions were to prepare financial statements and reports to the Board or the FSLIC in accordance with GAAP. 12 CFR 563.23-3(c).

As a result of continuing practice problems, the AICPA's AcSEC issued in February 1986 a Third Notice to practitioners superseding the two previous notices. *Notice to Practitioners on ADC Loans*, CPA Letter, February 10, 1986, at 3. This Third Notice was intended to clarify and expand upon the guidance provided in the two previous notices.

On March 4, 1987, the Board proposed to amend its ADC policy by adopting the Third Notice substantially in its entirety. The proposed policy would have deviated from GAAP, however, in that the lender's loan and accrued interest, real estate investment, or joint venture investment would be subject to recoverability under the market value concept of the Board's then-effective appraisal policies as set forth in staff memorandum R41c rather than the net realizable value concept which might be approriate for GAAP purposes.

The proposal also specifically sought comment on the effective date and transition rule of the amendment. Comments were sought because of inconsistencies between the effective date contained in the Third Notice and the determination by the Notice to a broader range of ADC arrangements. The proposal presented three alternatives: the AICPA effective date (the Third Notice governs only ADC transactions entered into after February 10, 1986); the SEC transition rule (the Third Notice applies to all ADC arrangements, regardless of when originated, but only financial statements prepared for periods ending on or after January 1, 1986 must reflect the asset reclassifications); and the Board compromise rule (the Third Notice applies to all ADC arrangements regardless of the date of origination, but only financial statements prepared for periods ending on or after the date of publication of the final policy statement must reflect this classification).

Summary of Comments Received on the Proposal

The Board received a total of 26 comment letters in response to its proposal. Seventeen comments were received from FSLIC-insured institutions, 5 from thrift trade associations, 2 from professional accounting societies, 1 from a thrift

holding company and 1 from a public accounting firm. Most commenters favored the substantive aspect of the proposal, agreeing that the thrift industry should adhere to the accounting guidance published by the AcSec Committee of the AICPA in the Third Notice, insofar as it differed from the guidance previously published by the AcSec in two previous Notices to Practitioners. Many noted that most of the thrift industry already follows the Third Notice even though it is not yet reflected in the Board's current policy statement. While, as discussed below, a few commenters suggested revisions to the substantive provisions of the accounting policy, both as it currently exists and as proposed, the vast majority of the comments received by the Board with respect to this proposal addressed the effective date and transition rule.

Of the comment letters addressing this issue, 19 commenters supported the AICPA effective date. Only one commenter supported the SEC rule. One expressed support for the FHLBB compromise rule. In addition, three comment letters expressed support for a prospective transition rule and effective date, under which the adoption of the provisions of the Third Notice would apply to ADC arrangements completed on or after the first day of the calendar quarter in which the final amendment of the ADC accounting rule becomes effective.

The primary focus of the comments addressing the substantive provisions of the proposal was the use of the R41c "market value" concept in evaluating the institution's ADC arrangements. The commenters addressing this issue all urged the Board to adhere to GAAP, as represented by the Third Notice.

Discussion

On August 10, 1987, Congress enacted the Competitive Equality Banking Act of 1987 ("CEBA"), Pub. L. 100–86, 101 Stat. 552. Section 402 of the CEBA instructs the Board to adopt accounting principles consistent with generally accepted accounting practices or practices of the commercial banking regulators. The Board notes that commercial banking regulators have not adopted any modifications to GAAP in this area. Additionally, Congress instructed the Board to modify its appraisal policies to conform with those of the federal banking agencies. As a result, the Board has withdrawn the R–41c memorandum discussed in the proposal. As part of its Uniform Accounting Standards regulation, adopted on December 21, 1987 and published at 12 CFR 563.23–3, the Board instructed all insured institutions to prepare financial reports to the Board or the FSLIC in accordance with GAAP for all periods beginning on or after January 1, 1989.

The Board has determined that insured institutions should account for ADC arrangements in accordance with GAAP. As such, loss allowances relating to ADC arrangements would be based upon net realizable value or market value as GAAP guidance would indicate is appropriate in the given circumstances. The Board has also determined that insured institutions should use the effective date set forth in the Third Notice in classifying ADC arrangements and in accounting for these arrangements. Publicly held institutions should continue to account for ADC arrangements in accordance with SEC requirements.

After reviewing the comments received in response to its proposal and in light of the CEBA and the Board's modification of its accounting regulations to conform to GAAP, the Board believes that a policy statement instructing insuring institutions that they should classify and account for ADC loans in accordance with GAAP, while accurate, is redundant and unnecessary.

The Third Notice, as discussed above, currently embodies GAAP on ADC arrangements. It is the Board's intention that institutions should account for ADC arrangements in accordance with the most recent guidance of the accounting profession. The Board believes that restating the Third Notice in the form of a Board regulation or policy statement would serve no useful purpose and in fact may lead to confusion in the event that GAAP is modified at some point in the future. The statement of policy is therefore being withdrawn.

The Board is taking this opportunity, however, to reiterate its commitment to monitoring ADC and nothing in the withdrawal of this statement of policy should be construed as in any way indicating any change in Board policy on this matter. As noted above, the Board's current accounting regulations instruct institutions to prepare reports in accordance with GAAP except where Board regulations affirmatively require a different accounting treatment. 12 CFR 563.23–3(c) (1988).

As indicated by the comments received in response to the proposal, the industry is already informally following the Third Notice, including the effective date contained therein. The Third Notice is less restrictive than the Board's statement of policy. Because of this, and to minimize industry confusion, the Board is adopting the effective date as set forth in the Third Notice.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following regulatory flexibility analysis:

1. *Need for and objectives of this rule.* These elements are incorporated above in **SUPPLEMENTARY INFORMATION.**

2. *Issues raised by comments and agency assessment and response.* The comments have been summarized and addressed in the **SUPPLEMENTARY INFORMATION** section of this rule.

3. *Significant alternative minimizing small-entity impact and agency response.* There are no less burdensome alternatives.

List of Subjects in 12 CFR Part 561

Accounting, Bank deposit insurance, Savings and loan associations.

Accordingly, the Board hereby amends Part 571, Subchapter D, Chapter V, Title 12, *Code of Federal Regulations,* as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 571—STATEMENTS OF POLICY

1. The authority citation for Part 571 continues to read as follows:

Authority: Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 406, 407, 48 Stat. 1256, 1257, 1259, 1260, as amended (12 U.S.C. 1725, 1726, 1729, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp. p. 1071.

§ 571.17 [Removed and reserved]

2. Section 571.17 is removed and reserved.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88–25997 Filed 11–9–88; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 429

Rule on Cooling-Off Period for Door-to-Door Sales

AGENCY: Federal Trade Commission.

ACTION: Final non-substantive amendments and exemptions to sellers of automobiles at auctions and arts and crafts at fairs.

SUMMARY: The Federal Trade Commission ("Commission") is issuing final non-substantive amendments to section 429 (a) and (b) of the Rule on a Cooling-Off Period for Door-to-Door Sales (16 CFR Part 429), and is granting exemptions to sellers of automobiles at public auctions and tent sales and arts and crafts at fairs. The Rule presently requires that sellers of goods or services who make sales away from their place of business provide the buyer with a completed Notice of Cancellation form in duplicate, containing certain mandatory language, which shall be attached to the contract or receipt and easily detachable. The amendments permit alternative methods of complying with the Notice requirements of the Rule, without lessening consumer rights. The Commission is also exempting sales of automobiles and products such as arts and crafts, which are offered for sale at temporary places of business, from the Rule's application pursuant to section 18(g) of the Federal Trade Commission Act. The exemption for automobile sales is limited to sellers who have at least one permanent place of business.

EFFECTIVE DATE: The amendments and exemptions will be effective on December 12, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis Franke, Attorney, Federal Trade Commission, Washington, DC 20580 (202) 326-3009.

SUPPLEMENTARY INFORMATION: The Rule on a Cooling-Off Period for Door-to-Door Sales was promulgated by the Commission on October 26, 1972 (37 FR 22933 (1972)). The Rule makes it an unfair or deceptive act or practice for the seller of consumer goods or services with purchase price of $25.00 or more, who sells away from its place of business, to fail to furnish to the buyer certain information including the buyer's right to cancel the sale within three business days from the date of the transaction and to give the buyer a full refund of any downpayment upon the buyer's cancellation.

On August 10, 1987 the Commission published a notice in the **Federal Register** (52 FR 29539 (1987)), soliciting public comments for 60 days on the Commission's proposed amendments to the Rule and proposed exemptions. The Commission also stayed application of the Rule to sellers of automobiles at temporary places of business and sellers of arts and crafts at fairs because the underlying reasons for the Rule do not appear to apply to these types of transactions.

In response to the Federal Register Notice the Commission received 15 comments.

I. Rule Simplification Proposals

The Commission proposed two simplification amendments concerning the "Notice of Cancellation," which is one of the two notices required by the Rule.[1]

The "Notice of Cancellation" is required to be in duplicate, attached to the contract or receipt and "easily detachable."[2] Each duplicate must contain the date of the transaction as well as the date by which the buyer must mail the "Notice of Cancellation" to cancel the transaction.[3] The "Notice of Cancellation informs the buyer about: (1) The right to cancel and how to cancel; (2) the seller's obligation to return to the buyer any property traded in, payments made and any negotiable instruments executed by the buyer; and (3) the buyer's and seller's obligations with regard to the purchased product. All of this information is required to be found in the "Notice" regardless of whether it is applicable.[4]

First, the Commission proposed that sellers be afforded the opportunity to select the method of providing the Notices to buyers. In place of the requirement that each seller furnish a completed form in duplicate, "which shall be attached to the contract or receipt and easily detachable," the Commission proposed substituting a provision that only requires the seller to furnish a completed form in duplicate, one copy of which can be easily returned to the seller to effect cancellation. A seller would be in compliance with the duplicate Notice requirement as long as the buyer can retain one copy for reference and mail another copy to cancel the transaction.

Second, the Commission proposed giving sellers the option to shorten the Notice by eliminating the sections that are inapplicable to a particular transaction, such as language dealing with property traded-in, negotiable instruments, or property being delivered within the three day cooling-off period.

[1] The Rule requires the seller to furnish the buyer with a completed receipt or copy of the sales contract with two types of notices. The first is a summary notice, printed near the place for the buyer's signature, which informs the buyer generally of the right to cancel the transaction and that there is an attached "Notice of Cancellation." The latter notice explains in detail the buyer's right to cancel. See § 429.1(a) and (b). The amendments affect only the "Notice of Cancellation."

[2] Section 429.1(b).

[3] Section 429.1(c).

[4] Section 429.1(d).

A. Summary of Comments

Several comments support the simplification proposals on the basis that they would greatly reduce compliance burdens such as printing costs and at the same time benefit consumers by making the notice more understandable.[5]

Sears proposed two additional sets of amendments to the Rule. First, Sears proposed modifying the Rule to conform to rescission under the Truth-in-Lending Act and Regulation Z[6] in order that sellers could use one form for both and to eliminate consumer confusion. Second, Sears proposed broadening two exceptions to the Rule, one dealing with repairs on personal property and the other with mail and telephone orders, to include additional repairs necessary to complete the repair work initially requested by the buyer.[7]

The National Automobile Dealers Association ("NADA") proposed obligating a cancelling buyer to return a purchased automobile to the seller instead of the current requirement of either the seller picking up the purchased merchandise or the buyer returning it at the seller's expense. There was also a proposal to extend the Rule's application to telephone sales because of the increased use of this medium to conduct sales.[8]

B. Conclusions

The Commission is rejecting the proposal to conform the requirements of the Rule with the requirements of the Truth-in-Lending Act and Regulation Z. Because transactions covered by the Act and Regulation are excluded from the Rule's application, consumers would not receive two different notices for one transaction, and therefore there is little likelihood of confusion. Further, the

[5] Direct Selling Association; Sears, Roebuck & Co.; Household Finance Co.; and the Recreational Vehicle Industry Association.

[6] Under the Truth-in-Lending Act and implementing Regulation Z, consumers have three days to cancel credit transactions involving a second mortgage on one's home. 15 U.S.C. 1635 and 12 CFR 226.15, 226.23. A transaction which is subject to rescission under Truth-in-Lending is exempt from the Cooling-Off Rule. See Note 1(a)(2) to Section 429.1 of the Rule. Though the right to cancel under both is fundamentally the same, the notices and obligations under them differ from each other in several respects.

[7] Transactions in which the buyer has requested the seller to repair the buyer's personal property are excluded from the Rule's coverage. See Note 1(a)(5) to the Rule. Transactions completed entirely by mail or telephone are also excluded from the Rule. See Note 1(a)(4). Sears believes that if it is determined that additional repairs and merchandise not initially requested by the buyer are necessary to complete the original repair, the additional work would not be included in the exception.

[8] W. Leipold.

Commission is rejecting the proposal to expand the exceptions to the Rule because all merchandise or services necessary to complete a repair requested by a buyer are already included in the above-mentioned exceptions. Finally, the Commission is rejecting separate proposals which would: (1) Obligate the buyer to return a purchased vehicle to the seller at the buyer's expense, upon the buyer's cancellation, and (2) extend the Rule's application to telephone sales, because there is no evidentiary record establishing the need for such actions.

Based on the comments received the Commission is adopting the amendments it originally proposed.[9] The first amendment affords sellers the opportunity to select the method of providing the Notices to buyers. In place of the requirement that each seller furnish a completed form in duplicate "which shall be attached to the contract or receipt and easily detachable," the Rule will only require the seller to furnish a completed form in duplicate, one copy of which can be easily returned to the seller for cancellation.

This would permit, for example, the use of a contract or receipt with the reverse side containing one "Notice of Cancellation" and an attached "Notice" to be used by the buyer should the buyer decide to cancel. Another alternative method of complying with the duplicate Notice requirement will be for the seller to give the buyer two copies of the contract or receipt with both having the Notice on the reverse side of the contract or receipt.

However, regardless of the method used, the seller must ensure that in the event of cancellation the buyer is able to retain a complete copy of the contract. For example, in the case of a two-page contract the seller is not permitted to place the required duplicate Notice on the contract in such a way that when the buyer returns one of the Notices, a portion of the contract is removed as well. To preclude this type of situation, as well as other similar situations, the Rule specifies that irrespective of the location of the two Notices, the buyer must be able to retain one complete copy of the contract or receipt in the event of cancellation.

Further, regardless of the method selected by the seller to satisfy the duplicate Notice provision of the rule, the buyer must know where to find the copies of the Notice if the disclosure and retention aspects of the Rule are to be effective. Thus for those sellers who do not attach both copies of the Notice to the contract or receipt, the last sentence of the summary notice required by paragraph (a) of the rule must be appropriately altered by the seller so as to include sufficiently specific information to enable the consumer to locate the copies easily. Of course, if both copies of the Notice are attached to the contract, no change in the current summary notice will be required.

This proposed simplification satisfies the Commission's original purpose in adopting these notice provisions. As in the current Rule, the proposed simplification continues to ensure that the buyer will receive two easily-located copies of the Notice and remain fully informed of his/her rights. Further, in the event of cancellation the buyer will be able to retain a complete copy of the contract or receipt. However, by provding the seller with increased flexibility in complying with the duplicate Notice provisions of the Rule, the policy objectives of those provisions will be attained at a lower cost (including paperwork-related costs) to the seller and ultimately to the consumer.

The second amendment gives sellers the option to shorten the Notice by eliminating the sections that are inapplicable to the particular transaction. Much of the mandatory language in the Notice is not applicable to many direct sales because they do not involve property traded-in, negotiable instruments, or property being delivered prior to the expiration of the three day cooling-off period. This amendment will further reduce paperwork—related costs incurred by sellers in complying with the Rule. Shortening the Notice will also benefit consumers. Fewer sections in the Notice should increase the likelihood of consumers' reading and understanding key provisions of all documents involved. Elimination of inapplicable language could be accomplished by inserting the words "where applicable" in the paragraph preceding the verbatim statement set forth in the required Notice.

The Commission is also issuing another nonsubstantive amendment that will permit sellers to use an alternative title for the cancellation notice, *i.e.*, "Notice of Right to Cancel," thereby clarifying the purpose of the notice. The Commission is permitting the use of this title as an optional method of complying with the requirement that the form required by § 429.1(b) of the Rule be captioned "Notice of Cancellation" so that sellers who choose to continue using their old forms or the original title may do so.

[9] These comments are consistent with comments the Commission received on the two studies it published in 1981 that led to the proposed amendments.

II. Exemption for Sellers of Certain Products at Temporary Locations

The Commission stayed the Rule's application to sellers of automobiles at temporary places of business and sellers of arts and crafts at fairs because application of the Rule to these sellers may not be necessary to prevent the deceptive practices to which the Rule relates.[10]

A. Summary of Comments

Three commenters support the proposed exemption for sellers of arts and crafts at fairs.[11] Twelve comments address the Commission's proposed exemptions for sellers of automobiles at temporary places of business. Eleven comments support the exemption for sellers of automobiles on the basis that the reasons for the Rule do not apply.[12] One opposes the proposed exemption because it claims it has received consumer complaints alleging that these sellers use deceptive advertising, including bait and switch tactics, high pressure sales tactics, and misrepresentations of quality and price.[13]

Another commenter [14] supports exempting all new and used car sellers who have at least one "permanent place of business," even though it may not be within the same city or county. One permanent place of business, argues this commenter, would be evidence that the seller is seriously engaged in business and could be contacted for future problems that might arise.

One commenter requested that the automobile exemption be broadened to include all vehicles, including motor homes, vans and trucks, and all vehicle accessories.[15] Another commenter proposed that the arts and crafts exemption be extended to sellers who sell at temporary booths located in shopping malls and local fairs.[16] One

[10] The Rule applies to sales made "at a place other than the place of business of the seller." See Note 1(a) to the Rule. Hence, the Rule applies to public auctions, tent sales, and sales at fairs.

[11] Sears, Roebuck & Co., Household Finance, and Recreational Vehicle Industry Association.

[12] The names of these organizations are: Pentagon Federal Credit Union, Texas Credit Union League & Affiliates, National Association of Federal Credit Unions, Direct Selling Association, American Car Rental Association, Recreational Vehicle Industry Association, Avis Rent A Car, The Hertz Corporation, National Automobile Dealers Association, Credit Union National Association, and Household Finance.

[13] North Carolina Attorney General's Office.

[14] Texas Credit Union League and Affiliates.

[15] Recreational Vehicle Industry Association.

[16] Household Finance.

commenter opposes limiting the automobile exemption to sellers having a permanent place of business because "legitimate auctioneers" not having a permanent place of business should be exempted.[17]

Finally, NADA proposed that instead of granting a national industry-wide exemption, the Commission amend the Rule to allow specific state and local exemption applications as well as individual applications on a case-by-case basis, thereby continuing the Rule's applications where necessary.

B. Conclusions

The Rule was promulgated by the Commission due to five problems associated with sales made away from the seller's principal place of business. These problems are: (1) Deception by the seller in getting inside the consumer's home; (2) high pressure sales tactics; (3) misrepresentation as to the quality, price or characteristics of the product; (4) high price for low quality merchandise; and (5) the nuisance created by the uninvited visit of the salesperson to the home.

Although the Rule is primarily directed toward door-to-door sales, the Commission was also concerned with itinerant salesmen who sell at restaurants, shops and other places, and with the possibility that salespeople would attempt to evade the Rule's application by luring consumers outside the home by subterfuge. The Commission therefore broadened the definition of a "door-to-door" sale to include those sales made away from the seller's place of business. A literal reading of the definition of "door-to-door" sale would include a host of away from home transactions not necessarily contemplated by the Commission when it issued the Rule. Sales at arts and crafts shows and sales of automobiles at auctions do not appear to have been contemplated by the Commission as these transactions were not referenced in the Commission's *Statement of Basis and Purpose* for the Rule.

All but one of the comments support the proposed exemptions on the basis that the reasons for the Rule do not apply to auto auctions and arts and crafts fairs. There is no indication that consumers are lured to these sales settings by subterfuge. Consumers know the purpose for going to an auction and that is to buy a car and at a fair to buy arts and crafts or other merchandise.

To the extent that certain problems occur at auto sales, they typify the same problems that may occur at transactions at the seller's place of business and are addressed by other Commission rules, *e.g.*, the Used Car Rule [18] and Guides on Bait and Switch, or state laws, *e.g.*, prohibitions of "As is Sales." [19] Moreover, application of the Rule to these transactions does not necessarily mean that buyers will get a three-day period in which to learn more about the condition of the goods they are purchasing. For example, the concern of the North Carolina Attorney General's office that sellers are not permitting consumers to test drive and inspect cars offered for sale at auctions is not necessarily alleviated by application of the Cooling-Off Rule.[20] As with many other goods and services the seller may choose not to make delivery until after the cooling-off period has expired. Because of the insurance, titling, and odometer issues involved for automobiles, delivery at the conclusion of the cooling-off period seems particularly likely.[21]

The record with regard to these transactions indicates the absence of the equivalent of a deceptive "door-opener" and subterfuge; the absence of the kind of high pressure sales tactics characterizing in-home sales, which may result in a purchase simply to convince the sales agent to cease using the tactics; and the absence of the nuisance aspects of in-home sales that the Rule sought to remedy. The extent of successful price and quality misrepresentation that may accompany in-home sales is unlikely to occur in these transactions because the consumer can peruse the wares of different vendors at the auction or the fair as well as the vendors at permanent business locations. Thus, it does not appear that the underlying reasons for the Rule apply to these types of transactions.

The Commission has determined therefore to grant the exemptions pursuant to section 18(g)(2) of the Federal Trade Commission Act.[22] However, the exemption for automobile sales will be limited to sellers who have at least one permanent place of business.[23] Any automobile sellers who are itinerant, a group of salespeople the Rule was aimed at,[24] will continued to be covered by the Rule. A permanent place of business would be an indication that the seller is seriously engaged in business and very importantly can be contacted for later problems that may arise with an automobile. This limitation is particularly appropriate given that auto sales are expensive transactions and often there may be a need to contact the seller. There is no indication that this limitation is necessary with regard to the sale of arts and crafts at fairs.

The request to broaden the automobile exemption covers many additional product categories not addressed in the notice seeking comment on the proposed exemptions. Thus, to consider this proposal would require an additional notice and comment period. Consequently, the Commission must deny this request at this time. The proposal to extend the arts and crafts exemption to products sold at temporary locations such as booths at shopping malls is unnecessary. The exemption for sellers of arts and crafts sold at fairs includes arts and crafts events at, for example, shopping malls, civic centers, community centers or schools.

Finally, the proposal to amend the Rule to include specific state and local exemption applications appears to be unnecessary. The state exemption provisions in rules such as the Used Car

[17] Credit Union National Association, Inc.

[18] 16 CFR Part 455. The Used Car Rule requires dealers to post a Buyers Guide on each used car which must describe whether the vehicle is sold with a warranty, or "as is." These Guides warn consumers not to rely on spoken promises and to seek independent inspections. To the extent that inspections are impractical in an auction setting, consumers will have greater incentives to ask for a warranty or to negotiate a lower purchase price to reflect any uncertainty over the vehicle's mechanical condition. The Guide also requires the seller to give the name and address of the dealer or the person to contact if there is a problem.

[19] See, *e.g.*, comments of CUNA and the Pentagon Federal Credit Union. The latter also stated that the combined effect of the Commission's Used Car Rule and various state "lemon laws" provides a level of protection against high prices for low quality merchandise.

[20] But see, Hertz and Avis comments. Hertz states that at tent sales of its vehicles done in conjunction with credit unions, "customers are permitted to examine the cars, test drive them and review each car's written maintenance record." Avis states that purchasers "have the opportunity to thoroughly look at the vehicles, to have them inspected by their own mechanics and to review the maintenance records for the vehicles."

[21] According to CUNA, where there is a three day cancellation period, "[c]redit unions, under these circumstances, are reluctant to release the proceeds of the loan until the three day period has expired. Further, Credit Union members would be forced to wait to take possession of their automobiles."

[22] 15 U.S.C. 57 (a). This section provides that the Commission may on its own or by petition exempt persons from a rule's application if it is not necessary to prevent a practice to which the rule relates. The exemption is effectuated through informal rulemaking, consisting of notice and comment.

[23] As was the case with the original petitioner, Public Auction, an auctioneer may not be the actual seller. Hence CUNA's opposition to the "permanent place of business" limitation on the basis that "legitimate auctioneers" should be exempted is a moot point. The Rule would not apply to the auctioneer unless he or she is the seller.

[24] See Section H of Chapter X to the Rule's *Statement of Basis and Purpose* 37 FR 22947 (1972).

Rule were designed to permit a state to enforce its own law if it provides protection comparable to the Commission's rule. No state or local government suggested the need for such a provision in this Rule. Further, the proposal to grant individual case-by-case exemptions in lieu of an industry-wide exemption is impractical. Many of the affected parties are likely to be relatively small or modest size businesses which might find it too costly or time consuming to petition the Commission. It also would be more resource intensive for the Commission to respond to individual requests rather than to grant the industry-wide exemption, which the Commission finds appropriate here. We therefore reject the proposal.

List of Subjects in 16 CFR Part 429

Trade practices.

For the reasons set forth in the preamble, the Commission amends 16 CFR Part 429 as follows:

PART 429—[AMENDED]

1. The authority citation for Part 429 is revised to read as follows:

Authority 15 U.S.C. 41–58.

2. In § 429.1 the following text will be added to the end of paragraph (a) and the introductory text of paragraph (b) is revised to read as follows:

§ 429.1 The Rule.

* * * * *

(a) * * *

The seller may select the method of providing the buyer with the duplicate notice of cancellation form set forth in paragraph (b) of this section, *provided however*, that in the event of cancellation the buyer must be able to retain a complete copy of the contract or receipt. Furthermore, if both forms are not attached to the contract or receipt, the seller is required to alter the last sentence in the statement above to conform to the actual location of the forms.

(b) Fail to furnish each buyer, at the time the buyer signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned either "NOTICE OF RIGHT TO CANCEL" or "NOTICE OF CANCELLATION," which shall (where applicable) contain in ten point bold face type the following information and statements in the same language, e.g., Spanish, as that used in the contract.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 88–25980 Filed 11–9–88; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining and Reclamation Enforcement

30 CFR Part 914

Indiana Permanent Regulatory Program; Approval of Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of an amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment changes the Indiana Surface Mining Law provisions concerning: (1) Bond surety, (2) locations where inspection and enforcement documents will be made available to the public, and (3) notices of violation to make these provisions consistent with the requirements of SMCRA.

EFFECTIVE DATE: November 10, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Room 300, Minton-Capehart Federal Building, 575 N. Pennsylvania Street, Indianapolis, Indiana 46204; Telephone: (317) 269–2609.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior conditionally approved the Indiana program effective July 29, 1982. Information regarding the general background on the Indiana program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107–32108). Subsequent actions concerning the conditions of approval and proposed amendments are identified in 30 CFR 914.15, 30 CFR 914.16 and 914.17.

II. Discussion of Amendments

On August 13, 1987 (Administrative Record No. IND–0501), the Indiana Department of Natural Resources (IDNR) submitted to OSMRE pursuant to 30 CFR 732.17, a proposed State program amendment for approval. The amendment modifies Indiana Code (IC) 13–4.1–6–4; 13–4.1–11–3; and 13–4.1–11–4. The proposed changes are briefly summarized below:

(1) Amendment to Indiana Code Section 13–4.1–6–4 requires that the surety of mine operator be recognized by the Treasurer of State as holding a certificate of authority from the United States Department of the Treasury as an acceptable surety on Federal Bonds.

(2) Amendment to Indiana Code Section 13–4.1–11–3 requires copies of any record, report, inspection material or other information obtained pursuant to the Division's inspection and enforcement responsibilities under Indiana Code 13–4.1–11 be made available at a public library in the county in which the mining operation is located rather than at the county recorder's office.

(3) Amendment to Indiana Code Section 13–4.1–11–4 requires that notices of violation are effective when served upon the permittee, subject to an application for temporary relief.

OSMRE announced receipt of the proposed amendments in the September 23, 1987 **Federal Register** (52 FR 35734) and, in the same notice, opened the public comment period and provided opportunity for a public hearing on their substantive adequacy. The public comment period ended October 23, 1987. There was no request for a public hearing and the hearing scheduled for October 19, 1987, was not held.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendments to the Indian program. Only those revisions of particular interest are discussed below. Any revisions not specifically discussed below are found to be no less stringent than SMCRA and no less effective than the Federal regulations. Revisions which are not discussed below contain language similar to the corresponding Federal rules, or concern non-substantive wording changes.

1. Bonding

Indiana has amended its program at Indiana Code Section 13–4.1–6–4 to require that the surety of a mine operator be recognized by the Treasurer of State as holding a certificate of authority from the United States Department of the Treasury as an acceptable surety on Federal Bonds.

Although SMCRA and the Federal regulations do not require that corporate sureties approved by the State also hold a certificate of authority from the United States Treasury, such a requirement would increase the likelihood that sureties would be solvent for the duration of the mining and reclamation operations. The Director finds, therefore, that the amendment is not inconsistent with the requirements of SMCRA and no less effective than the Federal bonding regulations at 30 CFR Part 800.

2. Availability of Records

Indiana has amended Indiana Code Section 13–4.1–11–3 to require copies of any record, report, inspection material or other information obtained pursuant to the Division's inspection and enforcement responsibilities under Indiana Code 13–4.1–11 be made available at a public library in the county in which the mining operation is located rather than at the county recorder's office in the appropriate county or counties as has previously been required. This change is consistent with SMCRA and the Federal regulations. SMCRA at section 517(f) requires that such records be conveniently available to the public in the areas of mining at county, multicounty and State locations. The Federal regulations at 30 CFR 840.14(c)(1) require that such records be available at Federal, State or local government offices in the county where the mining is occurring or is proposed to occur. The Director finds, therefore, that the amendment is no less stringent than SMCRA and no less effective than the Federal regulations.

3. Notices of Violation

Indiana Code Section 13–4.1–11–1 was amended to require that notices of violation are effective when served upon the permittee, subject to an application for temporary relief. This amendment is submitted to correct an inadequacy created by earlier passage of the Indiana Administrative Adjudication Act (IAAA) which made orders effective 15 days after being served unless another statute specifies a different date or the agency specifies a later date in the order. OSMRE announced approval of part of the IAAA amendment in the April 1, 1987, **Federal Register**, but deferred action on the effective date of orders issue (52 FR 10372). In that ruling, the Director stated that section 521(a)(3) of SMCRA and 30 CFR Part 840 do not provide for such time lapse between the discovery of a violation and the issuance of a notice of violation.

The current amendment at section 13–4.1–11–1 removes the time lapse provision and stipulates that notices of violation are effective when served. Subsequent correspondence with Indiana (Administrative Record No. IN–0591) has determined that Cessation Orders are effective when served as indicated by the Indiana provisions at IC 4–21.5–4–1 (concerning special proceedings and temporary orders) and IC 4–21.5–4–33 (indicating that such orders are effective when issued). The Director finds, therefore, that the amendment at IC 13–4.1–11–1 is no less stringent than SMCRA and no less effective than the Federal regulations, and that the Director's deferral of IC 4–21.5–3–6(d) at 30 CFR 914.15(p) can be removed.

IV. Public Comment

As discussed in the section of this notice entitled "Discussion of Amendments," the Director solicited public comment and provided opportunity for a public hearing on the proposed amendments. No comments were received from the public during the public comment period which closed on October 23, 1987. Since no one requested an opportunity to testify, the hearing scheduled for October 19, 1987, was not held.

Pursuant to 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, comments were also solicited from various Federal agencies with an actual or potential interest in the Indiana program. No comments were received.

V. Director's Decision

Based on the above findings, the Director is approving the amendments to sections IC 13–4.1–6–4, 13–4.1–11–3 and 13–4.1–11–4 of the Indiana program as submitted on August 13, 1987. The Federal rules at 30 CFR Part 914 codifying decisions concerning the Indiana program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to conform their programs to the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: November 2, 1988.

Robert E. Boldt,

Deputy Director.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Paragraph (p) of § 914.15 is revised to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(p) The following amendments are approved effective April 1, 1987: Revision to the Indiana Codes as contained in Senate Enrolled Act No. 41 and House Enrolled Act No. 1339 submitted June 11, 1986, as modified on November 7, 1986. Senate Enrolled Act No. 41 amends provisions at IC 13–4–6–9, IC 13–4.1–1–3, IC 13–4.1–1–5, IC 13–4.1–3–3, IC 13–4.1–3–4, IC 13–4.1–3–6, IC 13–4.1–4–1, IC 13–4.11–4–3, IC 13–4.1–4–7, IC 13–4.1–7–1, IC 13–4.1–7–5, IC 13–4.1–7–6, IC 13–4.1–8–1, IC 13–4.1–11–5, IC 13–4.1–11–6, IC 13–4.1–11–8, IC 13–4.1–

11–12, and IC 13–4.1–14–1. House Enrolled Act No. 1339, effective July 1, 1987, replaces IC 4–22–1 with the new State Administrative Adjudication act at IC 4–21.5.

3. Paragraph (t) is added to § 914.15 to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(t) The following amendments to the Indiana permanent regulatory program, as submitted to OSMRE on August 13, 1987, are approved effective November 10, 1988: Revisions to the Indiana Code (IC) as contained in Senate Enrolled Acts Nos. 44 and 225. Senate Enrolled Act No. 44 amends IC 13–4.1–6–4, which concerns acceptable surety. Senate Enrolled Act No. 225 amends IC 13–4.1–11–3, which concerns the availability of inspection and enforcement data at public libraries; and IC 13–4.1–11–4, concerning the effective date of notices of violation.

[FR Doc. 88–26163 Filed 11–9–88; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R, Amdt. No. 16]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Cardiorespiratory Monitor Durable Medical Equipment (DME) Benefit

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule expands the circumstances for which the CHAMPUS may share the cost of a cardiorespiratory monitor and certain associated services for in-home use. This change is necessary to comply with The National Defense Authorization Act for Fiscal Years 1988 and 1989.

EFFECTIVE DATE: December 4, 1987.

ADDRESSES: Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Joseph W. Baker, Office of Program Development, OCHAMPUS, telephone (303) 361–4019.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title. DoD Regulation 6010.8–R was reissued in the Federal Register on July 1, 1986 (51 FR 24008).

This final rule was not issued as a proposed rule as the change implemented is expressly authorized by legislation and further delay in providing public notice of the effective date of this enhanced benefit is contrary to the public interest [32 CFR 296.2(d)(4)]. Written comments, however, are invited for 30 days following publication of this final rule. Any revision prompted by public comments will be published in the Federal Register and any changes which operate to increase the rights, benefits, or privileges provided in the amended regulation will be effective retroactively to the effective date insofar as administratively feasible.

On December 4, 1987, the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Pub. L. 100–180) section 726 amended U.S.C. Title 10, Chapter 55 by adding section 1079(a)(15). The Act authorized cardiorespiratory home monitoring equipment for an infant who has had an apparent life-threatening event, or certain siblings of a victim of sudden infant death syndrome (SIDS), or whose birth weight was 1,500 grams or less, or who is a pre-term infant with pathologic apnea.

Coverage of this equipment for other applications which meet Program benefit requirements is not effected. To improve clarity, we have rewritten the regulation provision on durable medical equipment. Other than the inclusion of this expanded benefit, there have been no substantive changes.

The Office of CHAMPUS has determined that this amendment is not a major rule under Executive Order 12291 because (1) the projected additional cost to the Program for this benefit is less than $2 million, an amount far below the executive order threshold of an annual effect on the economy of $100 million or more; (2) this rule will reduce cost for those beneficiaries who would have otherwise had to pay the entire cost of this equipment; (3) there is no cost effect upon the general health care industry nor will it cause increased cost to the durable medical equipment supply segment of that industry as it places no regulatory burden upon either; (4) the rule places no regulatory burden upon Federal, State, or local government agencies, or geographic regions; and (5) the rule does not have any direct or indirect adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets as it does not concern these aspects of the market place.

Further, we certify that this final rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because this rule (1) only provides the administrative framework to allow Program beneficiaries to have the cost of this equipment shared by the Program; (2) does not guarantee payment or patronage; (3) does not affect the requirements for a firm to become a CHAMPUS-approved durable medical equipment supplier; and, (4) will generate estimated Program expenditures of less than $2 million dollars, an economic impact of no more than 0.125 percent of the estimated durable medical equipment sales of $1.6 billion from all sources nationally.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. § 199.4 is amended by revising paragraph (d)(3)(ii) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(d) * * *

(3) * * *

(ii) *Durable medical equipment*—(A) *Scope of benefit.* Subject to the exceptions in paragraphs (d)(3)(ii) (B) and (C) of this section, only durable medical equipment (DME) which is for the specific use of the beneficiary, and which complies with the definition of "Durable Medical Equipment" in § 199.2 of this part, and which is not otherwise excluded by this part, qualifies as a Basic Program benefit.

(B) *Cardiorespiratory monitor exception.* (1) When prescribed by a physician who is otherwise eligible as a CHAMPUS individual professional provider, or who is on active duty with a United States Uniformed Service, an electronic cardiorespiratory monitor, including technical support necessary for the proper use of the monitor, may be cost-shared as durable medical equipment when supervised by the

prescribing physician for in-home use by:

(*i*) An infant beneficiary who has had an apparent life-threatening event, as defined in guidelines issued by the Director, OCHAMPUS, or a designee, or

(*ii*) An infant beneficiary who is a subsequent or multiple birth biological sibling of a victim of sudden infant death syndrome (SIDS), or

(*iii*) An infant beneficiary whose birth weight was 1,500 grams or less, or

(*iv*) An infant beneficiary who is a pre-term infant with pathologic apnea, as defined in guidelines issued by the Director, OCHAMPUS, or a designee, or

(*v*) Any beneficiary who has a condition or suspected condition designated in guidelines issued by the Director, OCHAMPUS, or a designee, for which the in-home use of the cardiorespiratory monitor otherwise meets Basic Program requirements.

(*2*) The following types of services and items may be cost-shared when provided in conjunction with an otherwise authorized cardiorespiratory monitor:

(*i*) Trend-event recorder, including technical support necessary for the proper use of the recorder.

(*ii*) Analysis of recorded physiological data associated with monitor alarms.

(*iii*) Professional visits for services otherwise authorized by this part, and for family training on how to respond to an apparent life threatening event.

(*iv*) Diagnostic testing otherwise authorized by this part.

(C) *Basic mobility equipment exception.* A wheelchair, or a CHAMPUS-approved alternative, which is medically necessary to provide basic mobility, including reasonable additional cost for medically necessary modifications to accommodate a particular disability, may be cost-shared as durable medical equipment.

(D) *Exclusions.* DME which is otherwise qualified as a benefit is excluded as a benefit under the following circumstances:

(*1*) DME for a beneficiary who is a patient in a type of facility that ordinarily provides the same type of DME item to its patients at no additional charge in the usual course of providing its services.

(*2*) DME which is available to the beneficiary from a Uniformed Services Medical Treatment Facility.

(*3*) DME with deluxe, luxury, or immaterial features which increase the cost of the item to the government relative to a similar item without those features.

(E) *Basis for reimbursement.* The cost of DME may be shared by the CHAMPUS based upon the price which is most advantageous to the government taking into consideration the anticipated duration of the medically necessary need for the equipment and current price information for the type of item. The cost analysis must include comparison of the total price of the item as a monthly rental charge, a lease-purchase price, and a lump-sum purchase price and a provision for the time value of money at the rate determined by the U.S. Department of the Treasury.

* * * * *

Dated: November 7, 1988.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88-26082 Filed 11-9-88; 8:45 am]

BILLING CODE 3810-01-M

Defense Logistics Agency

32 CFR Part 1293

[DLA Reg. 5500.1]

Standards of Conduct

AGENCY: Defense Logistics Agency (DLA).

ACTION: Final rule.

SUMMARY: This regulation prescribes the standards of conduct required of all DLA personnel, regardless of assignment, which are set forth in DLA Regulation 5500.1, Standards of Conduct, 24 February 1988. The DLA Regulation implements DoD Directive 5500.7, 6 May 1987 as published at 32 CFR Part 40.

EFFECTIVE DATE: November 10, 1988.

FOR FURTHER INFORMATION CONTACT: Richard L. Frenette, Commercial—202-274-6158, Autovon—284-6158.

SUPPLEMENTARY INFORMATION: DLA Regulation 5500.1, Standards of Conduct implements DOD Directive 5500.7 and was approved by the General Counsel, DOD on 15 January 1988. To provide notice of the DLA regulation, it is being published in the **Federal Register** for incorporation in the Code of Federal Regulations.

List of Subjects in 32 CFR Part 1293

Conflict of interests.

By order of the director.

October 3, 1988.

James J. Singsank,

Colonel, USA, Staff Director, Administration.

A new Part 1293 is added to Subchapter B, Chapter XII of Title 32 of the Code of Federal Regulations to read as follows:

PART 1293—STANDARDS OF CONDUCT

Authority: E.O. 12222 30 FR 6469; 18 U.S.C. 201-209.

§ 1293.1 References.

(a) DLAR 1005.1, Decorations and Gifts from Foreign Governments.

(b) DLAR 1430.12, Civilian Employee Development and Training.

(c) DLAR 5035.1, Fund-Raising Within the Defense Logistics Agency.

(d) DLAR 5400.13, Clearance of Information for Public Release.

(e) DLAR 5500.4, Policies Governing Participation of DLA and Its Personnel in Activities of Private Associations.

§ 1293.2 Purpose and scope.

(a) Part 1293 prescribes standards of conduct required of all DLA personnel, military and civilian, regardless of grade or assignment. It also establishes criteria and procedures for reports required of certain individuals who have left Federal service and of former employees of defense contractors presently employed by DLA.

(b) Close adherence to the standards of conduct will ensure compliance with the high ethical standards demanded of all public employees. Violations of the standards prescribed in this regulation, or by Federal laws, including the laws described in enclosure 1, may result in criminal and/or administrative sanctions. Accordingly, all DLA personnel should become familiar with these standards.

(c) The reporting procedures for defense related employment are

applicable to former military officers and civilian employees of DLA and to former employees of defense contractors presently employed by DLA.

(d) All retired regular officers are also required to file a statement of employment with the Military Department in which they hold a retired status.

(e) This DLAR is applicable to HQ DLA and all DLA field activities and implements DoD Directive 5500.7, Standards of Conduct.

§ 1293.3 Policy.

(a) *General requirements.* (1) Government employment is a public trust which requires that loyalty to country, ethical principles, and the law be placed above private gain and other interests. All DLA personnel must conduct themselves, both on and off the job, in such a manner as to avoid the existence or appearance of a conflict of interest between their official responsibilities and their personal affairs.

(2) DLA personnel shall become familiar with the scope of, authority for, and limitations on the activities for which they are responsible. DLA personnel also shall acquire a general knowledge of the statutory standards of conduct prohibitions and restrictions. The most commonly encountered of these provisions are summarized in Appendix A, and are laws dealing generally with conflicts of interest and postemployment activities.

(3) If DLA personnel are unsure whether a proposed action or decision is proper because it may be contrary to law or regulation, they shall consult the Designated Agency Ethics Official, or Deputy Ethics Official, for guidance. The individuals are identified in § 1293.4.

(4) DLA personnel shall not take or recommend any action or make or recommend any expenditure of funds known or believed to be in violation of Federal laws, Executive Orders, or applicable directives, instructions, or regulations.

(5) Practices that may be accepted in the private business world may not be acceptable for DLA personnel. As public employees, all DLA personnel are accountable for the manner in which they perform their official responsibilities.

(6) DLA personnel shall strictly adhere to the DLA program of equal opportunity regardless of race, color, religion, sex, age, national origin, or handicap.

(7) DLA personnel shall avoid any action, whether or not specifically prohibited by Part 1293, which might result in or reasonably be expected to create the appearance of:

(i) Using public office for private gain.

(ii) Giving preferential treatment to any person or entity.

(iii) Impeding Government efficiency or economy.

(iv) Losing complete independence or impartiality.

(v) Making a Government decision outside official channels.

(vi) Affecting adversely the confidence of the public in the integrity of the Government.

(b) *Information to personnel.*

(1) All new civilian employees and military personnel newly assigned to DLA will be provided a copy of Part 1293 upon their entrance to duty.

(2) DLA personnel shall be reminded at least semiannually of their duty to comply with the required standards of conduct. Appropriate means of accomplishing these reminders include notices, circulation of Part 1293 to employees, briefings, or any other means which serve to remind employees of their ethical responsibilities.

(3) Copies of the Code of Ethics for Government Service (Appendix B) shall be displayed in appropriate areas of DLA occupied buildings in which 20 or more persons are regularly employed. (Code of Ethics posters are self-service supply items and may be obtained under NSN 7690–01–099–8167.)

(4) All DLA employees (military and civilian) who leave Federal service shall be informed of the restrictions on the postemployment activities of former Federal employees.

(c) *Conflicts of interest*—(1) *Affiliations and Outside Associations.*

(i) DLA personnel shall not engage in any personal, business, or professional activity which conflicts with the interests of the Government they serve through the duties and responsibilities of their DLA positions. This prohibition applies to all DLA employees, regardless of whether they are required to file a financial disclosure report. In the event a conflict, or potential conflict of interest arises, it shall be promptly reported and resolved in accordance with § 1293.7(b).

(ii) Membership or activity of DLA personnel in non-Governmental associations or organizations must not be incompatible with their official Government positions (see DLAR 5500.4).[1]

[1] Copies may be obtained, if needed, from Defense Logistics Agency, ATTN: DLA–XPD, Cameron Station, Alexandria, VA 22304–6100.

(iii) DLA personnel shall not knowingly deal, on behalf of the Government, with present or former Government personnel, military or civilian, whose participation in the transaction would be in violation of a statute, regulation, or policy set forth in Part 1293.

(2) *Financial interests.* DLA personnel shall not receive or retain any direct or indirect financial interest which conflicts with the interests of the Government they serve through the duties and responsibilities of their DLA positions. Matters concerning outside employment by DLA personnel are discussed in paragraph (i) of this section. For the purpose of this prohibition, the financial interests of a spouse, minor child, or any household member are treated as the financial interests of the DLA employee. Thus, not only stocks and other similar holdings, but also the wages, salaries, dividends, or any other income of a spouse, minor child, or household member are considered financial interests of the DLA employee. Particular care must be given in situations involving former DoD contractor employees as they may be entitled to benefits from their former employer (such as pensions, company discounts or concessions, etc.) which could create a criminal conflict of interest situation under 18 U.S.C. 208 if DLA assigns the employee duties and responsibilities involving the former employer. (For reporting requirements unique to former DoD contractor employees see § 1293.7(e). These prohibitions apply to all DLA employees, regardless of whether they are required to file a financial disclosure report. In the event a conflict or potential conflict of interest arises, it shall be promptly reported and resolved in accordance with § 1293.7(b).

(3) *Avoiding Actual or the Appearance of Conflicts of Interest.* Direct or indirect financial interests in a defense related contractor, in any amount and in any form (stocks, bonds, options, employment of spouse, minor child, or any other household member) may be a prohibited conflict or appearance of a conflict of interest. Outside employment or other outside activity, with or without compensation, regarding possible future employment may also create a conflict or the appearance of a conflict of interest. Discussions with a defense contractor regarding possible future employment may require reporting and disqualification under the procedures set forth in paragraph (k) of this section. In these situations, DLA personnel are encouraged to seek advice from the

Designated Agency Ethics Official or Deputy Ethics Official to protect not only themselves, but also be avoid embarrassment to DLA.

(4) *Assignment of Reserves for training.* DLA personnel who assign Reserves for training shall not assign them to duties in which they will obtain information that could be used by them or their private sector employers to gain unfair advantage over civilian competitors. Prior to entering active duty, reservists must disclose to superiors or assignment personnel, sufficient information to ensure that no conflict exists between their duty assignments and their private interests.

(d) *Use of DLA Position, Property, Resources, and Information*—(1) *Using DLA position.* DLA personnel are prohibited from using their DLA position to induce, coerce, or in any manner influence any person to provide any benefit, financial or otherwise, to themselves or others.

(2) *Use of Civilian and Military Titles or Positions in Connection with Commercial Enterprises.* (i) All DLA personnel are prohibited from using their official titles or positions in connection with the promotion of any commercial enterprise or endorsement of any commercial product. This does not preclude author identification for materials published in accordance with DLAR 5400.13.[2]

(ii) Retired military personnel, and members of Reserve components not on active duty, may use their military titles in connection with commercial enterprises provided that they indicate their Retired or Reserve status. However, if the use of military titles in any way casts discredit on the Military Departments or DoD, or gives the appearance of sponsorship, sanction, endorsement, or approval by a Military Department or DoD, it is prohibited. In addition, a Military Department may further restrict the use of titles, including use by retired military personnel and members of reserve components not on active duty, in overseas areas.

(3) *Use of Government property and resources.*

(i) DLA personnel have a positive duty to protect and conserve Government property and resources and assure that they are used only for official Government business. DLA personnel shall not directly or indirectly use, take, dispose of, or allow the use, taking, or disposing of, Government property including property leased to the Government, for other than official purposes. Government facilities, property, and resources (such as telephones, stationery, stenographic and typing assistance, duplicating and computer equipment) shall be used only for official Government business.

(ii) These provisions do not preclude the use of Government facilities for approved activities in furtherance of DLA community relations, provided they do not interfere with military missions or Government business. Government equipment and clerical support may be authorized for the preparation of papers to be presented to professional associations if appropriate to the mission of the office and approved, in advance, by the Head of the HQ PSE or PLFA.

(iii) All DLA personnel are responsible for using office telecommunication services (telephone, message, data, video, facsimile services, etc.) for official use only. The term "official use" means service directly in support of Government business or as otherwise approved by the Head of the PSE or PLFA, or their designee, as being in the best interest of the Government.

(A) DLA office telecommunications services are resources provided to conduct business directly in support of the Government.

(B) DLA shall pay only for the official uses of DLA telecommunications services.

(C) Where available and practicable, steps shall be taken to ensure user accountability (i.e., call verification, call restriction, other telecommunications service features).

(D) Employees who make unofficial use of DLA office telecommunications services are subject to appropriate disciplinary action.

(4) *Using inside information.* DLA personnel shall not directly or indirectly use information obtained as a result of their DLA position to further a private gain for themselves or others if that information is not generally available to the public. This prohibition continues even after a DLA employee leaves Federal service.

(5) *Release of acquisition information.* All releases of acquisition information shall be in accordance with authorized procedures. DLA personnel are prohibited from making an unauthorized disclosure of any information concerning proposed acquisitions or purchases by DLA, or the identity of any contractor, unless the contractor's identity has been made public under established procedures.

(6) *Unauthorized statements or commitments with respect to award of contracts.* Only contracting officers and their duly authorized representatives acting within their authority are authorized to commit the Government to the award of contracts. Unauthorized DLA personnel are prohibited from making any commitment or promise relating to the award of a contract or from making any representation that reasonably can be construed as such a commitment.

(e) *Commercial and charitable solicitations*—

(1) *Commercial Soliciting by DLA Personnel.* To eliminate the appearance of coercion, intimidation, or pressure from rank, grade, or position, full-time DLA personnel are prohibited from making personal commercial solicitations or sales to DLA personnel (including their family members) who are junior in rank or grade, or who are under any level of supervision by them, at any time, on or off duty.

(i) This prohibition includes, but is not limited to, the solicitation and sale of insurance, stocks, mutual funds, real estate, and any other commodities, goods, or services.

(ii) This prohibition does not include the sale or lease by individuals of their own personal property or privately-owned residence or to the off-duty employment of DLA personnel as employees in retail stores or other situations not involving solicited sales.

(2) *Charitable solicitations by DLA personnel.* The high visibility of DLA officials generates requests from charitable and nonprofit organizations to use an official's name and title in conjunction with fund-raising activities. The use of names and titles of DLA officials, even regarding fund-raising activities of charitable organizations, may give an improper impression that the Department of Defense or Defense Logistics Agency endorses the activities of a particular organization, thereby resulting in unauthorized assistance for the organization or sponsors of the activities. The presence of DLA officials may be sought, under the guise of bestowing awards upon the official, to promote attendance at programs. DLA officials shall not allow the use of their names or titles in connection with charitable or nonprofit organizations, subject to the following:

(i) DLA personnel may assist only those charitable programs administered by the Office of Personnel Management under its delegation from the President and those other programs authorized by DLAR 5035.1.

(ii) This prohibition does not preclude speeches before such organizations by DLA officials if the speech is designed to express an official position in a public forum.

[2] See footnote 1. to § 1293.3(c)(1)(ii).

(iii) This prohibition does not preclude volunteer efforts on behalf of charitable or nonprofit organizations by individuals who do not use their official titles in relation to solicitations and who do not solicit from individuals or entities with whom they do business in their official capacity.

(f) *Other prohibitions—*

(1) *Gambling, betting, and lotteries.* While on Government-owned, leased, or controlled property, or otherwise while on duty for the Government, DLA personnel shall not participate in any gambling activity, including a lottery or pool, a game for money or property, and the sale or purchase of a number slip or ticket. The only exceptions are:

(i) Where authorized by law, such as vending stands licensed in accordance with 20 U.S.C. 107a(a)(5) to sell chances for any lottery authorized by state law and conducted by an agency of a state.

(ii) Activities which have been specifically approved by the Director, DLA.

(2) *Indebtedness.* DLA personnel shall pay their just financial obligations in a timely manner, particularly those imposed by law, such as Federal, state, and local taxes. DLA activities are not required to determine the validity or amount of disputed debts.

(g) *Gratuities, reimbursements, and other benefits from outside sources—*

(1) *Policy.* No matter how innocently tendered and received, the acceptance of gratuities, reimbursements, or other benefits by DLA personnel (including their spouse, minor child, or any household member) from those who have or seek business with the Department of Defense or from those whose business interests are affected by Department of Defense functions, may be a source of embarrassment to the Department of Defense, may affect the objective judgment of the DLA personnel involved, and may impair public confidence in the integrity of the Government.

(2) *Bribery and graft.* DLA personnel may be subject to criminal penalties if they solicit, accept, or agree to accept anything of value in return for performing or refraining from performing an official act.

(3) *General prohibition.* Except in the limited circumstances set forth in Appendix C, DLA personnel (including their spouse, minor child, or any household member) shall not solicit, accept, or agree to accept any gratuity, reimbursement, or other benefit for themselves, or others, either directly or indirectly from or on behalf of any source that:

(i) Is engaged in or seeks business or financial relations of any sort with any DoD Component.

(ii) Conducts operations or activities that are either regulated by a DoD Component or substantially affected by DoD decisions.

(iii) Has interests that may be substantially affected by the performance or nonperformance of the official duties of DLA personnel.

(iv) Is a foreign government or representative of a foreign government that is engaged in selling to the DoD, where the gratuity is tendered in the context of the foreign government's commercial activities. (See also paragraph (h)(1) of this section.)

(4) Employees who receive gratuities which may not be accepted under the limited circumstances set forth in Appendix C shall promptly report the matter to the Designated Agency Ethics Official or Deputy Ethics Official.

(h) *Gifts and donations.*

(1) Procedures with respect to gifts from foreign governments are set forth in DLAR 1005.1.[3]

(2) Prohibition of Contributions or Presents to Superiors. DLA personnel shall not solicit a contribution from other DLA personnel for a gift to a superior, make a donation as a gift to a superior, give a gift to a superior, or accept a gift from other DLA personnel subordinate to themselves. This prohibition also applies to gifts, contributions, or donations to immediate family members of a superior. However, this paragraph does not prohibit voluntary gifts of reasonable value or contributions of nominal amounts (or the acceptance thereof) on special occasions such as marriage, illness, transfer, or retirement, provided that any gifts acquired with such contributions will be reasonable in value in view of the occasion.

(i) *Outside employment of DLA personnel.*

(1) DLA personnel shall not engage in outside employment or other outside activity, with or without compensation, that:

(i) Interferes with, or is not compatible with, the performance of their Government duties.

(ii) May reasonably be expected to bring discredit on the Government.

(iii) Is otherwise inconsistent with the requirements of Part 1293, including the requirements to avoid actions and situations which reasonably can be expected to create the appearance of conflicts of interests.

[3] See footnote 1. to § 1293.3(c)(1)(ii).

(2) Enlisted military personnel on active duty may not be ordered or authorized to leave their post to engage in a civilian pursuit, business, or professional activity if it interferes with the customary or regular employment of local civilians in their art, trade, or profession.

(3) Off-duty employment of military personnel by an entity involved in a strike is permissible if the person was on the payroll of the entity prior to the commencement of the strike, and if the employment is otherwise in conformance with the provisions of Part 1293. After a strike begins and while it continues, no military personnel may accept employment by that involved entity at the strike location.

(4) DLA personnel are encouraged to engage in teaching, lecturing, and writing. However:

(i) DLA personnel shall not, either for or without compensation, engage in activities that are dependent on information obtained as a result of their Government employment, except when: The information has been published or is generally available to the public; or it will be made generally available to the public, and the Director, DLA gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(ii) Employment by a DoD contractor is prohibited unless the circumstances are presented to and approval is obtained from the Designated Agency Ethics Official or Deputy Ethics Official stating that such employment does not constitute either a conflict or the appearance of a conflict of interest between the employee's duties and the outside employment.

(j) *Honoraria.* DLA personnel may not accept honoraria for official activities, nor may they suggest charitable contributions in place of honoraria. Even when acting in a personal, rather than official, capacity:

(1) DLA personnel are prohibited from accepting an honorarium of more than $2,000 (excluding travel and subsistence expenses, agent's fees or commissions) for any appearance, speech, or article;

(2) The acceptance of honoraria from groups doing, or seeking to do business with DLA, presents the potential for a conflict of interest or the appearance of a conflict. Before accepting any honorarium, DLA personnel shall consult the Designated Agency Ethics Official, or Deputy Ethics Official.

(k) *Pursuit of outside employment.*

(1) When a military officer assigned to DLA or a civilian DLA employee leaves Federal service and begins working for a business with which the officer or

employee conducted official business, or one which might have been affected by the officer or employee's performance of official duties, the public may perceive that the public's interest has been compromised. There is the concern that the former officer or employee may have been more interested in future employment than the diligent performance of official duties and protecting the Government's interests. Officers and employees must be sensitive to this public perception when considering future employment opportunities and avoid any action which would cause loss of public confidence in their performance of official duties.

(2) DLA personnel shall not perform any official duties, or otherwise participate in any official matter dealing with any organization with which the DLA employee is pursuing employment, has any arrangement concerning future employment, or has a financial interest. Pursuing employment is not limited to firm offers of employment; it includes any action which could reasonably be construed as an indication of interest in future employment, including sending letters or résumés, telephone discussions, or the consideration of unsolicited proposals from a business entity regarding possible future employment.

(3) All DLA personnel who have contact (regardless of who initiated the contact) regarding possible future employment, or have any arrangement concerning future employment with any organization that may be affected by the performance of their official duties shall immediately report the contact to the Designated Agency Ethics Official or Deputy Ethics Official. So long as the decision on future employment with the organization remains open, DLA personnel must disqualify themselves from participating in any manner in any official action involving that organization. Thus, if a DLA employee mails resumes to multiple organizations, that may be affected by the performance of official duties, the DLA employee must report the sending of resumes, disqualify himself/herself from participating in matters involving those organizations until either the organization or the employee specifically terminates the employment possibilities. Disqualification procedures are set forth in § 1293.7(c).

(l) *Restrictions on the activities of former officers and employees.* Laws and regulations impose restrictions on the activities of individuals who have ceased Federal employment. Violation of some of the laws and regulations may result in criminal prosecution. It is the obligation of each military officer assigned to DLA and each civilian employee, upon ending Federal service, to review the post employment restrictions in making decisions regarding their post employment activities. Appendix A contains a summary of the laws and regulations which deal with the conduct of DLA officers and employees and the restrictions on the activities of former officers and employees.

§ 1293.4 Definitions.

(a) *Alternate Agency Ethics Official.* An attorney in the DLA Office of General Counsel who shall serve in the absence of the Designated Agency Ethics Official. The attorney shall be appointed by the General Counsel, DLA.

(b) *Defense contractor.* Any individual, firm, corporation, partnership, association, or other legal entity that enters into a contract directly with the Department of Defense to furnish services, supplies, or both, including construction, to the Department of Defense. Subcontractors are excluded, as are subsidiaries unless they are separate legal entities that contract directly with the Department of Defense in their own names. Foreign governments or representatives of foreign governments that are engaged in selling to the Department of Defense are defense contractors when acting in that context.

(c) *DLA personnel.* All civilian officers and employees of DLA, including special Government employees, and all active duty military officers (commissioned and warrant) and enlisted members of the Army, Navy, Air Force, and Marine Corps, assigned to DLA.

(d) *Deputy ethics officials.* The Counsel of each DLA PLFA and the DLA Counsel, Europe are designated as Deputy Ethics Officials.

(e) *Designated Agency Ethics Official (DAEO).* The General Counsel, DLA is appointed the DLA Designated Agency Ethics Official (DAEO).

(f) *Financial interest.* Any wages, salaries, interest, dividends, or any other form of income or benefit received or to be received in the future by virtue of the relationship; includes potential benefit, such as preemployment contracts with a potential employer; also includes financial interests of a spouse, minor child, and member of household.

(g) *Gratuity.* Any gift, favor, entertainment, hospitality, transportation, loan, or any other tangible item, and any intangible benefits (such as passes, discounts, promotional benefits, vendor training) given or extended to or on behalf of DLA personnel, their spouse, minor child, or member of their household for which fair market value is not paid by the recipient or the U.S. Government.

(h) *Honorarium (and all variations).* A payment of money or anything of value received by an officer or employee of the Federal Government, if it is accepted as consideration for an appearance, speech, or article. The term does not include payment for or provision of actual travel and subsistence, including transportation, accommodations, and meals of an officer or employee and spouse or aide, and does not include amounts paid or incurred for any agent's fees or commissions.

(i) *Special Government employee.* A person who is retained, designated, appointed, or employed to perform, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. The term also includes a Reserve military officer while on active duty solely for training for any length of time, one who is serving on active duty involuntarily for any length of time, and one who is serving voluntarily on extended active duty for 130 days or less. It does not include enlisted personnel.

§ 1293.5 Significant changes.

Part 1293 has been revised to incorporate changes necessitated by a new DoD Standards of Conduct Regulation and new statutory reporting and postemployment restrictions. The most significant changes relate to the limited circumstances under which DLA personnel can accept gratuities from DoD contractors and in prescribing which employees are required to file DD Forms 1555, Confidential Statement of Affiliations and Financial Interests. Finally, the provisions of law which require reports of cetain former DLA employees who have left Federal service and are working for certain DoD contractors, as well as certain former DoD contractor employees currently working for DLA, have been incorporated in Part 1293 rather than in a separate part, DLAR 7700.3, Reporting Procedures on Defense Related Employment.[4]

§ 1293.6 Responsibilities.

(a) *DLA Wide.* (1) All DLA Employees will: (i) Become familiar with the standards of conduct set forth in Part 1293.

[4] See footnote 1, to § 1293.3(c)(1)(ii).

(ii) Adhere to the highest standards of honesty and integrity.

(iii) Promptly file financial disclosure reports when required by Part 1293.

(iv) Bring suspected violations of a statute or standards of conduct imposed by Part 1293 to the attention of the Designated Agency Ethics Official or Deputy Ethics Official in a timely manner.

(v) Report to their immediate supervisor the acceptance of gratuities under the exceptions provisions of Appendix C. Failure to submit these reports will be a basis for disciplinary action.

(vi) Refuse to participate in any matters which appear to violate the provisions of Appendix A, call the appropriate provisions of Appendix A to the attention of any retired or former officer or employee with whom they deal, and advise that any apparent violations will have to be referred to the Department of Justice.

(2) All DLA Supervisors will: (i) Ensure that the position description of each of their immediate subordinates indicates whether the incumbent of the position is required to submit a financial disclosure report (DD Form 1555 or SF 278).

(ii) Ensure that an individual has filed a DD Form 1555 prior to assuming the duties of a position that requires the incumbent to submit the form.

(iii) Annually review the positions of their immediate subordinates to ensure that the position descriptions accurately reflect whether the incumbent is required to file a financial disclosure report (DD Form 1555).

(iv) Review DD Forms 1555 filed by their immediate subordinates to identify any conflict between the employee's private financial interests and official responsibilities, complete the supervisor's statement contained therein, and forward the completed form to the appropriate DLA ethics official. (See Appendix E, section 1293.3(g)).

(b) *HQ DLA.* (1) The Heads of HQ DLA Principal Staff Elements will: (i) Remind all personnel in their Directorate/Office at least semiannually of their duty to comply with the required standards of conduct and advise employees that they may obtain clarification of Part 1293 from the Office of General Counsel, DLA (DLA–G).

(ii) Report promptly all violations of Part 1293 and statutes cited herein to the General Counsel, DLA.

(iii) Review and evaluate the DD Forms 1555 filed by their deputies prior to forwarding them to the General Counsel, DLA.

(iv) Assure that required DD Forms 1555 are filed by officers and employees of their element and forwarded to the General Counsel, DLA, in accordance with Part 1293.

(2) The Staff Director, Office of Military Personnel, DLA (DLA–M) will:

(i) Assure that all military personnel, upon assignment to duty with DLA in the Metropolitan Washington area, are informed of the standards of conduct specified in Part 1293, and are furnished a copy.

(ii) Maintain a list of all military personnel within the activities furnished personnel services by DLA–M who are required to submit a DD Form 1555.

(iii) Assure that all military officers furnished personnel services by DLA–M, upon separation from active duty when assigned to DLA, are informed of the standards of conduct and post employment restrictions governing former military officers, and are furnished copies of available information and guidance relating to service with DLA.

(3) The Commander, DLA Administrative Support Center (DASC) will: (i) Furnish a copy of Part 1293 to all civilian personnel receiving personnel services by DASC upon entry to duty.

(ii) Assure that each position description for a civilian employee receiving personnel services from DASC indicates whether the incumbent of that position is required to submit a financial disclosure report (DD Form 1555 or SF 278).

(iii) Maintain a list of all civilian employees in DLA activities furnished personnel service by DASC who are required to submit a financial disclosure report (DD Form 1555 or SF 278).

(iv) Assure that all civilian employees receiving personnel services by DASC, upon their separation from Federal service, are informed of the standards of conduct and post employment restrictions governing former civilian employees, and are furnished copies of available information and guidance.

(4) The General Counsel, DLA will:

(i) Have the authority to modify or supplement any of the enclosures to Part 1293 in a manner consistent with the policies set forth in Part 1293.

(ii) Provide additional clarification of standards of conduct, post employment restrictions and related laws, rules and regulations, and provide advice and assistance on all matters relating to conflicts of interests.

(iii) Coordinate proper and final disposition of all matters that are not resolved by the supervisor or Deputy Ethics Official relating to matters arising under Part 1293.

(iv) Receive, review, approve, and make available to the public all SF 278s required to be filed in accordance with Part 1293.

(v) Receive, review, and approve DD Forms 1555 required to be submitted to the General Counsel, DLA after review by supervisors.

(vi) Receive, review, and approve DD Form 1787, Report of DoD and Defense Related Employment, required to be filed under the Part 1293.

(vii) Receive reports of any favor, gratuity, or entertainment accepted by DLA personnel as being in the Government's interest, when required to be submitted to the Designated Agency Ethics Official and initiate or recommend action as appropriate.

(viii) Review reports of violations of the standards of conduct statutes or regulations required to be submitted under paragraphs (c)(2) (ii) and (iii) of this section and assure proper action has been taken.

(ix) Initiate procedures and take action in accordance with Appendix G, Administrative Enforcement Provisions.

(x) Initiate and maintain a counseling, education, and training program concerning all ethics, standards of conduct, and post-employment matters.

(xi) Periodically evaluate DLA's ethics program and disclosure reporting systems.

(xii) Appoint the Alternate Agency Ethics Official.

(c) *Field activities.* Establishment and maintenance of an effective ethics program is a command responsibility. Commanders shall integrate the DLA ethics program into PLFA operations and procedures and provide sufficient resources to enable the Deputy Ethics Official to administer the PLFA ethics program in a positive and effective manner.

(1) Heads of DLA Primary Level Field Activities will: (i) Assure that all employees, military and civilian, upon their separation from military or Federal service, are informed of the standards of conduct and post employment restrictions governing former military or civilian employees, and are furnished copies of available information and guidance.

(ii) Take action to advise employees that they may obtain clarification of Part 1293 from the PLFA Office of Counsel.

(iii) Review and evaluate the DD Forms 1555 submitted by their deputies prior to forwarding them to the General Counsel, DLA.

(iv) Assure that required DD Forms 1555 are filed by officers and employees of their activity and forwarded to the appropriate Deputy Ethics Official, in accordance with Part 1293.

(2) The Counsel for each DLA PLFA will: (i) Serve as Deputy Ethics Official and provide advice and assistance on matters relating to standards of conduct, post employment restrictions, and conflicts of interest and related laws, rules, and regulations arising at the activity.

(ii) Issue advice on the applicability of 10 U.S.C. 2397b to personnel assigned to their activity.

(iii) Forward to DLA–G a report of each suspected violation of the standards of conduct statutes or regulations as required under § 1293.7(a).

(iv) Provide a summary of all reports of violations of the standards of conduct statutes or regulations and the status of each investigation or other action taken to HQ DLA, ATTN: DLA–G. Such reports shall be furnished semiannually, as of 31 March and 30 September each year, and shall be forwarded to reach HQ DLA no later than 10 calendar days after the reporting date. For those violations that are being reported under other procedures, this reporting requirement may be satisfied by a reference to the identifier of the other procedure. This reporting requirement is assigned report control symbol DLA(SA)2217(G).

(v) Review, approve, and retain DD Forms 1555 for personnel of the activity (except the Head of the PLFA and deputy) and all subordinate DLA activities after review by the supervisor.

(vi) Establish a procedure to identify employees within the activity and subordinate activities who are required by Part 1293 to file DD Forms 1555.

(vii) By 10 December of each year, notify DLA–G that all employees of the activity required to file DD Forms 1555 as of 30 September of that year have filed the form, and of any apparent conflicts of interest identified on the forms that have not been resolved.

(3) The responsibilities assigned to PLFA Counsel may be delegated to the Counsel of a subordinate activity.

§ 1293.7 Procedures.

(a) *Reporting suspected violations.* DLA personnel who have information which causes them to believe that a violation of the policies, procedures, or standards set forth in Part 1293 or of the statutes listed in Appendix A is foreseeable or has occurred shall report the matter promptly to the General Counsel, DLA or PLFA Counsel who shall:

(1) Evaluate the report and obtain such additional information as may be necessary.

(2) Refer the matter for investigation or other action as appropriate, or advise the reporter that no further action will be taken.

(3) Forward a report of the matter and any action taken to the General Counsel, DLA within 30 days.

(b) *Resolving violations.* The resolution of real, apparent, or potential standards of conduct violations shall be accomplished promptly by one or more measures, such as divestiture of conflicting interests, disqualification for particular assignments, changes in assigned duties, transfer, reassignment, suspension, termination, or other appropriate action, as provided by statute or administrative procedures (see Appendix G).

(c) *Disqualification or Divestiture Procedures—* (1) *Affiliations and Financial Interests.*

(i) Any DLA employee who has affiliations or financial interests (which includes those of their spouse, minor children, or members of their households) which create conflicts of interest or the appearance of conflict of interest with their official duties, must immediately disqualify themselves from any official activities that are related to those affiliations or interests of the entities involved. If the individual cannot adequately perform assigned official duties after such disqualification, divestiture will be required or the individual must be moved from that position. The requirement to remedy the conflict or the appearance of a conflict exists independently of the requirement to file a financial disclosure report.

(ii) *Exceptions.* (A) DLA personnel need not disqualify themselves for holding shares of a widely-held, diversified mutual fund or regulated investment company. Such holdings are exempt as being too remote or inconsequential to affect the integrity of the services of DLA personnel.

(B) In limited circumstances, the General Counsel, DLA may exempt, under 18 U.S.C. 208(b), certain affiliations and financial interests if they are deemed not substantial enough to affect the integrity of Government services. Written requests for such exemptions will be processed through the appropriate Deputy Ethics Official.

(2) Written notice of disqualification must be promptly delivered to the employee's immediate supervisor, immediate subordinates, and to the Designated Agency Ethics Official or Deputy Agency Ethics Official.

(3) Supervisors shall periodically review disqualification notices to ensure their effectiveness.

(d) *Financial disclosure procedures.* Many military officers and civilian employees of DLA are subject to one of the financial disclosure reporting systems described below. Persons subject to each are identified below. Detailed instructions on the information to be furnished and the procedures for processing the forms are set out in Appendices to this Part 1293 and in referenced regulations.

(1) *Executive Personnel Financial Disclosure Report (SF 278).*

(i) The following military officers and civilian employees are required by the Ethics in Government Act of 1978 to file a Standard Form 278 if they have served in an identified position for 61 days or more during the preceding calendar year. These individuals need not file a DD Form 1555.

(A) Civilian employees, including special Government employees, whose positions are classified at GS–16 or above of the General Schedule, or whose basic rate of pay under other pay schedules is equal to or greater than the minimum rate of basic pay fixed for GS–16 (except for GS/GM–15s).

(B) Members of the uniformed services whose pay grade is O–7 or above.

(C) Civilian employees in SES or in any other position determined by the Director of the Office of Government Ethics to be of equal classification to GS–16.

(D) The Designated Agency Ethics Official and Alternate Agency Ethics Official.

(ii) Detailed instructions on the information to be furnished and the procedures for processing the forms are set forth in Appendix D.

(2) *Statements of Affiliations and Financial Interests (DD Form 1555).*

(i) The following DLA personnel are required to submit initial and annual Statements of Affiliations and Financial Interests (DD Form 1555), unless they are subject to the Executive Personnel Financial Disclosure Report (SF 278).

(A) PLFA Commanders, Deputy Commanders and Counsel, and PSE Heads and Deputies.

(B) DLA personnel classified at GS/GM–15 or below, or at a comparable pay level under other authority, and members of the military whose pay grade is below O–7 not otherwise required to file under paragraph (d)(2)(i)(A) of this section, whose official duties require the exercise of judgment in making a Government decision or in taking Government action for contracting or procurement, regulating or auditing private or other non-Federal enterprise, or other activities in which the final decision or action may have an economic impact on any non-Federal entity.

(C) DLA personnel, regardless of grade, in the following positions:

(1) Attorneys.

(2) Contracting Officers.

(3) Supervisory Quality Assurance Representatives and Supervisory Quality Assurance Specialists.

(4) Quality Assurance Representative-in-Charge.

(5) Supervisory Procurement Agents and Analysts.

(6) Supervisory Industrial Property Administrators.

(7) Supervisory Industrial Specialists.

(8) Supervisory Industrial Engineers.

(9) Supervisory Property Disposal Specialists and Property Disposal Officers.

(10) Value Engineers and Analysts.

(D) Reserve officers assigned to positions meeting the criteria in paragraphs (d)(2)(i) (B) and (C) of this section.

(E) Other special Government employees as set forth in Appendix E.

(ii) Detailed instructions on the information to be furnished and the procedures for processing the forms are set forth in Appendix E.

(e) Reporting procedures applicable to former military officers and civilians employees, and to former employees of defense contractors now employed by DLA.

(1) *Defense Related Employment (DD Form 1787)*—(i) *Personnel required to file.* The following individuals are required to file a Report of DoD and Defense Related Employment (DD Form 1787):

(A) A retired former military officer who served on active duty at least 10 years and who held, for any period during that service, the pay grade of O–4 or above, or a former civilian employee whose pay rate at any time during the 3-year period prior to the end of DoD employment was equal to or greater than a the minimum rate for a GS–13 (GS–12, step 7) and:

(1) Within the 2-year period immediately following the termination of service or employment with a DoD Component, is employed by a defense contractor who, during the year before the former officer or employee began employment, was awarded $10,000,000 or more in defense contracts; and

(2) Is employed by or performs service for the defense contractor and at any time during a year directly receives compensation of or is salaried at a rate of $25,000 per year or more from the defense contractor ("compensation" is received by a person if it is paid to a business entity with which the person is affiliated in exchange for services rendered by that person).

(B) Each civilian officer and employee of a DoD Component who:

(1) Is employed at a pay rate equal to or greater than the minimum rate for GS–13 (GS–12, step 7), and

(2) Within the 2-year period prior to the effective date of service or employment with the DoD Component, was employed by a defense contractor who, during a year, was awarded $10,000,000 or more in defense contracts, and

(3) Was employed by or performed services for the defense contractor and at any time during that year received compensation of or was salaried at a rate of $25,000 per year or more at any time during employment ("compensation" is received by a person if it is paid to a business entity with which the person is affiliated in exchange for services rendered by the person).

(ii) Detailed instructions concerning this reporting requirement are contained in Appendix F.

(2) *Statement of Employment (DD Form 1357).*

(i) Each retired Regular officer of the Armed Forces shall file with the Military Department in which he or she holds retired status a DD Form 1357, Statement of Employment-Regular Retired Officers (Appendix H). The DD Form 1357 should not be filed with DLA. Filing shall be within 60 days after retirement and thereafter within 30 days of changing employer or taking on new duties. The filing requirement continues for 3 years after retirement.

(ii) Additional details concerning this reporting requirement are contained in:

(A) AR 600–50.

(B) SECNAVINST 5370.2.

(C) AFR 30–30.

(D) MCO 5330.3C.

Appendix A to Part 1293—Laws Affecting DLA Personnel

I. Caution

Employees and former employees are cautioned that the descriptions of the laws and regulations in this enclosure should not be the only thing relied upon to make decisions regarding their activities. Although the descriptions do provide general guidelines, restrictions are dependent on the specific facts in a particular case. Accordingly, employees and former employees are encouraged to discuss specific cases with the Designated Agency Ethics Official or Deputy Ethics Official in their Office of Counsel, or with private counsel.

II. Conflict of Interest Laws

A. 18 U.S.C. 203

1. Subsection (a) prohibits military officers or civilian employees from directly or indirectly receiving or seeking compensation for services rendered or to be rendered before any department or agency in connection with any contract, claim, controversy or particular matter in which the United States is a party or has a direct and substantial interest. The statute does not apply to enlisted military personnel. The purpose of this law is to reach any situation where the judgment or efficiency of a Government agency might be influenced because of payments or gifts to an officer or employee regardless of whether there is any intent to give preferential treatment in a manner otherwise than provided by law.

2. Subsection (b) makes it unlawful for anyone to offer or to pay the compensation prohibited by subsection (a).

B. 18 U.S.C. 205

1. This law prohibits military officers or civilian employees from acting as an agent or attorney for anyone else before a department, agency, or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest. The law does not apply to enlisted military personnel.

2. The following exemptions are allowed:

a. The law does not prohibit military officers or civilian employees from giving testimony under oath; from making statements required to be made under the penalty of perjury or contempt; or, from representing another person, without compensation, in a personnel matter such as a discrimination complaint or disciplinary action.

b. The law also authorizes a limited waiver of its restrictions and those of section 203 for an officer or employee, including a special Government employee, who represents his or her parents, spouse, or child, or a person or estate he or she serves as a fiduciary. The waiver is available only if approved by the official making appointments to the position. However, the waiver does not allow the officer or employee to represent any person in matters in which the officer or employee has participated personally and substantially or which are the subject of the officer or employee's official responsibility.

c. Finally, section 205 gives the head of a department or agency the authority to allow a special Government employee to represent his or her regular employer or other outside organization in the performance of work under a Government grant or contract if the department or agency head certifies and publishes in the **Federal Register** that the national interest requires such representation.

C. 18 U.S.C. 208

1. Subsection (a) prohibits military officers and civilian personnel from their personal and substantial participation as Government personnel in any particular matter in which they, their spouse, their minor children, their partners, their employers, their prospective employers, or their organizations have a financial interest. "Personal and substantial participation" includes such things as decision, approval, disapproval, recommendation, the rendering of advice, or investigation. A "particular matter" may be less concrete than an actual contract, but is something more specific than rule making or

abstract scientific principles. If the individual can reasonably anticipate that his/her Government action, or the decision in which he/she participates or with respect to which he/she advises, will have a direct and predictable effect upon financial interests, then a "particular matter" is involved.

2. Subsection (b) permits a written exemption from subsection (a) if the outside financial interest is deemed in advance not substantial enough to affect the integrity of Government services. Categories of financial interests may also be made nondisqualifying by a regulation published in the **Federal Register**. Shares of a widely held, diversified mutual fund or regulated investment company have been exempted as being too remote or inconsequential to affect the integrity of the services of Government personnel.

D. 18 U.S.C. 209

Subsection (a) prohibits military officers and civilian employees from receiving, and prohibits anyone from paying them, any money as additional compensation for their Government service. The law does not apply to enlisted military personnel. Subsection (b) permits military officers and civilian employees to participate in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer. Subsection (c) exempts special Government employees and anyone serving the Government without compensation. Subsection (d) exempts contributions, awards, or other expenses under the Government Employees Training Act. See 5 U.S.C. 4111(a).

E. 10 U.S.C. 2397a

This law applies to DoD employees at pay rates of GS–11 or higher (GS–10, Step 4) and to military officers in pay grades O–4 or higher. These employees must report any contact they have had, or will have, with defense contractors regarding future employment with the defense contractor. These employees must also disqualify themselves from any participation in DoD procurements related to the defense contractor. The penalty for violation is a bar from employment with the defense contractor for up to 10 years after Government service and up to a $10,000 penalty.

III. Restriction on Former Military Officers and Civilian Employees

A. Former Officers and Employees Include the Following Personnel:

1. Full-time civilian employees who have left Federal service.

2. Special Government employees who have left Federal service.

3. Retired military officers released from active duty.

4. Reserve military officers released from active duty. The term does not include enlisted personnel; however, enlisted personnel are subject to the restrictions applicable to retired members of the Armed Forces set forth in subparagraph G.

B. Senior employees are those individuals who have been specifically advised by the Designated Agency Ethics Official that they hold senior employee positions. In general, senior employees within DLA include military officers in pay grades O–7 and above, and most Senior Executive Service (SES) positions.

C. General:

1. Laws and regulations restrict the activities of former officers and employees, establish certain reporting requirements, and, in some cases, restrict employment by former officers and employees with DoD contractors. Violation of some of the laws and regulations may result in criminal prosecution, or civil fines.

2. The purpose of the post employment restrictions is to preclude the actual or apparent use of public office for private gain, and to ensure that the administration of Government is conducted honestly and in an impartial manner.

3. The restrictions are divided into five parts; those applicable to all former officers and employees, those applicable to former senior employees, those applicable to retired military officers, and those applicable to all retired members of the Armed Forces. In addition, the special restrictions applicable to personnel who were engaged in "procurement functions" are set out. Because of the expansive definition of the term "procurement function," all civilian employees whose grade was GS–12, step 7 or higher, and all military personnel in grades O–4 and above should review the definition of "procurement function" set forth in subparagraph H6i below.

4. In addition to the information contained herein, retired military personnel are encouraged to review parallel regulations of their Military Service:

a. Army—AR 600–50.

b. Navy—SECNAVINST 5370.2H.

c. Air Force—AFR 30–30.

d. Marine Corps—MCO 5330.3C.

5. General professional knowledge acquired while in Federal service generally may be used while employed in the private sector. Laws and regulations do, however, restrict activities of former officers and employees which give the appearance of making unfair use of prior Federal employment and affiliations, or are detrimental to public confidence in the Government. In addition, certain former employees who dealt with DoD contractors may be prohibited from working for those contractors.

D. Restrictions Applicable to all Former Officers and Employees:

1. Permanent bar on representation. (18 U.S.C. 207(a).) Former officers and employees (not including former enlisted personnel) may never represent anyone except the United States or communicate with any Government agency with the intent to influence the United States in any matter with which the former officer or employee was personally and substantially involved while a Government employee, and which involves specific parties where the United States either is a party or has an interest.

a. This provision is aimed at your activities representing anyone, whether or not you make a personal appearance before the Government. The intent of the provision is to prevent you from "switching sides," so that information, influence, and access you acquired during Federal service is not subsequently used for improper or unfair advantage in post-employment dealings with the Government.

b. The matters to which this bar applies are those in which you were involved as a Federal employee. Your involvement as a Federal employee must have been of significance to the matter, or must form the basis for a reasonable appearance that it was significant, and may include involvement by any of your subordinates.

c. Matters of general application such as general policy or program design are not included in this bar.

d. The concept of representation is broadly construed and includes any type of communication whose intent is to influence the United States. Representation includes not only acting as another's attorney or agent, but promotional and contract representations as well. Communications include both oral and written communications.

2. Two-year bar on representation. (18 U.S.C. 207(b)(i).) Former officers and employees (not including enlisted personnel) may not, for a 2-year period after departing from Federal service, represent anyone except the United States in any matter which was pending under the former employee's official responsibility during the final year of Federal service. The bar includes communicating with any Government agency with intent to influence the United States on the matter.

a. The only substantive difference between this 2-year bar and the permanent bar described in subparagraph 1. above is the degree of your closeness to, or involvement in, the matter.

b. The term "official responsibility" refers to the direct administrative or operating authority, whether intermediate or final, either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

3. Exception for Scientific or Technological Information. The permanent bar and 2-year bar do not apply to communications made solely for the purpose of furnishing scientific or technological information if approved by the head of the agency to which the communication is directed.

E. Additional Restrictions Applicable to Former Senior Employees:

1. *Two-year bar. (18 U.S.C. 207(b)(ii).)* For 2 years after leaving a senior employee position, you may not represent or assist in representing another person by personally appearing at any proceeding before the Government where the matter that is the subject of the proceeding, is one in which you participated personally and substantially while in Federal service.

a. The matters to which this bar applies are those in which you were involved as a Federal employee. Your involvement as a Federal employee must have been of significance to the matter, or must form the basis for a reasonable appearance that it was significant, and may include involvement by any of your subordinates.

b. This restriction does not bar all forms of behind-the-scenes assistance by you, but only assistance in representing or assisting in

representing another person while personally present at any type of proceeding.

2. *One-year bar. (18 U.S.C. 207(c).)* For one year after leaving a senior employee position, you may not represent anyone before your former agency, or have any communication with your former agency on any matter which is pending before or of substantial interest to the agency. This restriction, sometimes called the "no contract" bar, is intended to provide a "cooling-off" period between you and your former agency.

a. This bar applies regardless of the degree of your involvement with the matter.

b. The bar applies to all matters, whether or not specific parties are involved, and includes matters of general application such as general policy or program design.

c. The bar also extends to matters in which your agency has a substantial interest even though the matter may be pending before another agency.

d. The bar is limited to contracts with your former agency and does not apply Government-wide.

e. Your former agency is specifically defined. As it pertains to former DLA senior employees, the term includes DLA and the DoD less:

(1) The Military Departments.

(2) Defense Mapping Agency.

(3) Defense Communications Agency.

(4) Defense Intelligence Agency.

(5) Defense Nuclear Agency.

(6) National Security Agency.

f. There are several exemptions to this one-year bar. The bar does not cover a former senior employee who is: An elected official of a state or local government; an employee of an accredited degree-granting institution of higher education; or, an employee of a nonprofit hospital or medical research organization, provided that the communication, appearance, or representation is on behalf of such government, institution, hospital, or organization. The bar also does not cover purely social or informational communications, the transmission or filing of documents not requiring governmental action, personal matters, representing oneself in any administrative or judicial proceeding, any expression of personal view where the former senior employee has no monetary interest, responses to the former agency's request for information, or participation as the principal researcher or investigator under Government grants.

F. Additional Restrictions Applicable to Retired Regular Military Officers:

1. *Claims against the United States (18 U.S.C. 281)*

a. A retired officer of the Armed Forces may not, for two years after release from active duty, act as an agent or attorney for prosecuting or assisting in the prosecution of a claim against the United States:

(1) Which involves the Military Department in which the officer is retired, or

(2) Which involves any subject matter with which the officer was directly connected while on active duty.

b. The penalty for violating this restriction includes civil and criminal sanctions.

2. *Selling to the United States (18 U.S.C. 281)*

a. A retired officer of the Armed Forces may not, for two years after release from active duty, receive (or agree to receive), either directly or indirectly, any compensation for representating any person in the sale of anything to the United States through the Military Department in which the officer is retired.

b. The penalty for violating this restriction includes civil and criminal sanctions.

3. *Retired Regular Officers*

For 3 years after retirement, a retired Regular officer may not, either for himself/herself or for others, sell, contract, or negotiate to sell, any supplies or war materials to the DoD (or any of its components), Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service.

a. This 3-year bar does not prohibit all types of employment by, or association with, a company that does business with the Government. The bar is directed only to those activities related to selling which include:

(1) Signing a bid, proposal, or contract.

(2) Negotiating a contract.

(3) Contracting an officer or employee of any of the agencies listed in subparagraph 2.b. above for the purpose of:

(a) Obtaining or negotiating contracts,

(b) Negotiating or discussing changes in specifications, price, cost allowance, or other terms of a contract, or

(c) Settling disputes concerning performance of a contract, or

(4) Any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefore is subsequently negotiated by another person.

b. Violations of this bar are punishable by loss of retirement pay for that period of time during which the prohibited activity occurs.

G. Additional Restrictions Applicable to all Retired members of the Armed Forces:

1. *DoD civilian employment.* A retired member of the Armed Forces may not be appointed to a DoD civilian position within 180 days after retirement unless:

a. The employment is approved by the appropriate authority (DOD Directive 1402.1, Employment of Retired Members of the Armed Forces).

b. The position is one for which an advance hiring pay rate has been authorized by the Office of Personnel Management under 5 U.S.C. 5305, or

c. A state of national emergency exists.

2. *Foreign employment.* A retired member of the Armed Forces may not accept any present, emolument, office, title, or employment from any foreign government unless approved by the Secretary of the Military Department concerned and the Secretary of State. The penalty for a violation is loss of retirement pay.

3. *Use of military titles.* Retired members of the Armed Forces may not use their military title in such a way as to give rise to the appearance of sponsorship, sanction, endorsement, or approval of the Military Service or the DoD in connection with any commercial enterprise. Overseas commanders may further restrict the use of military titles by retired personnel in overseas areas.

H. Special Restrictions on the Activities of Former Employees Who Were Engaged in Procurement Functions:

1. Pursuant to 10 U.S.C. 2397b, certain former military officers and civilian employees may not receive compensation from a major defense contractor for a 2-year period, beginning on the date the former officer or employee separated from Federal service. This restriction prohibits the acceptance of compensation from a particular major defense contractor only if the former officer or employee performed the duties listed in subparagraph 2, below, relating to that same defense contractor.

2. *Personnel to whom restrictions apply.* Individuals in the following categories are subject to the restrictions:

a. Civilian employees whose rate of pay was greater than or equal to that for a GS–13, Step1 (GS–12, Step 7) and military officers in pay grades of O–4 or higher, if such individuals:

(1) Spent the majority of their working days during the last 2 years of DoD service performing a procurement function relating to a DoD contract, at a site or plant that was owned or operated by a contractor, and which was the principal location of their performance of that procurement function; or

(2) Performed, on a majority of their working days during the last two years of DoD service, a procurement function relating to a major defense system and, in the performance of such a function, participated on any occasion personally and substantially in a manner involving decision-making responsibilities with respect to a contract for that major defense system through contact with the contractor.

b. Civilian employees who served in a Senior Executive Sevice position or higher, and military officers who served in the pay grade of O–7 or higher, if such individuals during the last 2 years of DoD service:

(1) Acted as a primary representative of the United States in the negotiation with a defense contractor of a defense contract in an amount in excess of $10,000,000 (the actual contractual action taken by the individual must have been in an amount in excess of $10,000,000), or

(2) Acted as a primary representative of the United States in the negotiation of a settlement of an unresolved claim of such a defense contractor in an amount in excess of $10,000,000. An unresolved claim shall be, for the purposes of Part 1293 valued by the greater of the amount of the claim or the amount of the settlement.

3. *Advice from the designated Agency Ethics Official.*

a. Any person may, before accepting compensation, request that PLFA Counsel or the General Counsel, DLA provide advice on the applicability of 10 U.S.C. 2397b and Part 1293 to the acceptance of such compensation.

b. A request for advice shall be in writing and shall contain all relevant information.

c. If the PLFA Counsel or General Counsel, DLA receives a request for advice, he shall issue a written opinion in response thereto

not later than 30 days after receipt of all relevant information.

d. If the advice rendered by the PLFA Counsel or General Counsel, DLA states that the law and Part 1293 are inapplicable, and that the individual may accept the compensation from the contractor, then there shall be a conclusive presumption that the acceptance of the compensation is not a violation of 10 U.S.C. 2397b.

4. *Apparent violations.* Apparent violations. Apparent violations of these prohibitions shall be referred to the General Counsel, DLA who will review the matter for referral to the DoD Inspector General or the Inspector General of the appropriate Military Department for investigation.

5. *Penalties.* Pursuant to 10 U.S.C 2397b(b)(1), individuals who knowingly violate the prohibitions of this section are subject to a civil fine of up to $250,000.

6. *Special definitions.* For the purpose of subparagraph H of this Appendix, terms used shall have the following meanings:

a. *Armed Forces.* The term "Armed Forces" does not include the United States Coast Guard.

b. *Compensation.* Includes any payment, gift, benefit, reward, favor, or gratuity which is provided directly or indirectly for services rendered by the person accepting such payment and which has a fair market value in excess of $250. Compensation shall be deemed indirectly received if it is paid to an entity or person other than the individual, in exchange for services performed by the individual.

c. *Contractor-operated facility.* Includes any facility leased or loaned by the United States to the contractor by written agreement. It does not include facilities located on a military installation where contractor personnel may work, but which is not either leased or loaned by the United States to the contractor by written agreement.

d. *Defense contractor.* An entity that: Contracts directly with the Department of Defense to supply the Department of Defense with goods or services; or, controls or is controlled by an entity that contracts directly with the Department of Defense to supply the Department of Defense with goods or services; or, is under common control with an entity that contracts directly with the Department of Defense to supply the Department of Defense with goods or services. The term does not include an affiliate or subsidiary of an entity that contracts directly with the Department of Defense to supply the Department of Defense with goods or services if the affiliate or subsidiary is clearly not engaged in the performance of a defense contract, nor does it include a state or local government.

e. *DoD component.* The Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, the Inspector General, and the Defense Agencies, including nonappropriated fund activities.

f. *Employee.* This term does not include a part-time employee, or a Special Government Employee.

g. *Major defense contractor.* Any business entity which, during the fiscal year preceding the fiscal year in which compensation was received, was a defense contractor that received defense contracts in a total amount equal to or greater than $10,000,000.

h. *Major defense system.* A combination of elements that will function together to produce the capability required to fulfill a mission need. Elements may include hardware, equipment, software, or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a major defense system if: the Department of Defense is responsible for the system and the total expenditures, for research, development, test and evaluation for the system are estimated to exceed $75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement exceeds $300,00,000 (based on fiscal year 1980 constant dollars); or, the system is designated a "major system" by the head of the agency responsible for the system.

i. *Majority of working days.* The majority of days actually worked during the period, excluding weekends, holidays, days of leave or sick days when the employee did not actually work. A work day on which an individual performed a procurement function includes any day on which the individual worked on that procurement function for any amount of time during that day.

j. *Negotiation and settlement.* Exchange of views between representatives of the Government and a contractor regarding respective liabilities and responsibilities of the parties on a particular contract or claim. It includes deliberations regarding contract specifications, terms of delivery, allowability of costs, pricing of change orders, etc.

k. *Primary Government representative.* If more than one Government representative is involved in any particular transaction, it is the Government employee who supervised the Government's effort in that matter. To act as a "representative" requires personal and substantial participation in the transaction, by personal presence, telephone conversation, or similar involvement with representatives of a contractor.

l. *Procurement related function (or "procurement function").* Any function relating to: The negotiation, award, administration, or approval of a contract; the selection of a contractor; the approval of a change in a contract; the performance of quality assurance, operational and developmental testing, the approval of payment, or auditing under a contract; or, the management of a procurement program.

m. *Separation of a member of the Armed Forces.* A person who is a retired or former member of the Armed Forces shall be considered to have been separated from service in the Department of Defense on the effective date of the person's discharge or release from active duty.

IV. Other Laws Applicable to DoD Personnel

Engaging in the following activities may subject present and former DLA personnel to criminal or other penalties:

A. Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (18 U.S.C. 201).

B. Concealing or failing to report to proper authorities the commission of felony under any criminal statute if the person knew of the actual commission of the crime (18 U.S.C. 4).

C. Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (18 U.S.C. 371).

D. Lobbying with appropriated funds (18 U.S.C. 1913).

E. Disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

F. Disclosure of classified information (18 U.S.C. 793 and 798, 50 U.S.C. 783); and disclosure of trade secrets and other confidential information (18 U.S.C. 1905).

G. Habitual use of intoxicants to excess (5 U.S.C. 7352).

H. Misuse of a Government vehicle (31 U.S.C. 1349(b)).

I. Misuse of the mailing privilege (18 U.S.C. 1719).

J. Deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

K. Committing fraud or making false statements in a Government matter (18 U.S.C. 1001).

L. Mutilating or destroying a public record (18 U.S.C. 2071).

M. Counterfeiting and forging transportation requests (18 U.S.C. 641).

N. Embezzlement of Government money or property (18 U.S.C. 641); failing to account for public money (18 U.S.C. 643); private use of public money (18 U.S.C. 653) and embezzlement of the money or property of another person in the possession of an employee by reason of his/her Government employment (18 U.S.C. 654).

O. Unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

P. Certain political activities (5 U.S.C. 7321–7327 and 18 U.S.C. 600, 601, 602, 603, 606, and 607). These statutes apply to civilian employees; regulations govern military personnel (DoD Directive 1344.10).[5]

Q. Any person (including a special Government employee) who is required to register under the Foreign Agents Registration Act of 1938 (18 U.S.C. 219) may not serve the Government as an officer or employee. The section does not apply to retired Regular military officers who are not on active duty, or Reserves who are not on active duty or who are on active duty for training; or, a special Government employee in any case in which the department head certifies to the Attorney General that his or her employment by the United States Government is in the national interest.

R. Soliciting contributions for gifts or giving gifts to superiors, or accepting gifts from subordinates (5 U.S.C. 7351). This statute applies only to civilian employees; the provisions of § 1293.3(h), apply to military personnel.

S. Acceptance of excessive honoraria (2 U.S.C. 441i).

T. Acceptance, without statutory authority, of any present, emolument, office or title, or

[5] See footnote 1. to § 1293.3(c)(1)(ii).

employment of any kind whatever, from any king, prince, or foreign state by any person holding any office or profit in or trust of the Federal Government, including all retired military personnel and regular enlisted personnel (U.S. Constitution, Art. I., Sec. 9, cl. 8). Exceptions to this prohibition are authorized under 37 U.S.C. 908.

U. Union activities of military personnel (10 U.S.C. 976).

V. Violation of merit system principles (5 U.S.C. 2301).

W. Prohibited personnel practices (5 U.S.C. 2302).

X. Employment of a Regular Navy Officer or a Regular Marine Corps Officer, other than a retired officer, by a person furnishing naval supplies or war materials to the United States (37 U.S.C. 801(a)).

Appendix B to Part 1293—Code of Ethics For Government Service—Pub. L. 96–303

Any person in Government service should:

I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

II. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors and benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

VII. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

VIII. Never use any information gained confidentially in the performance of government duties as a means for making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

Appendix C to Part 1293—Additional Guidance On Gratuities, Reimbursements, And Other Benefits From Outside Sources

I. General

The general prohibition against accepting gratuities, reimbursements, and other benefits from outside sources does not apply to the following. These exceptions shall be applied narrowly in keeping with the prohibition in § 1293.3(g).

A. The continued participation in employee welfare or benefit plans of a former employee when permitted by law and approved by the General Counsel, DLA, or PLFA Counsel.

B. The acceptance of unsolicited advertising or promotional items that are less than $10 in retail value.

C. The acceptance of trophies, entertainment, prizes, or awards for public service or achievement in an individual, unofficial capacity or given in games or contests that do not relate to official duties and are clearly open to the public generally, or are officially approved for DLA personnel participation.

D. The acceptance of benefits available to the public, such as university scholarships covered by DoD Directive 1322.6, Fellowships, Scholarships, and Grants for Members of the Armed Forces, and free exhibitions by DoD contractors at public trade fairs.

E. The acceptance of discounts or concessions realistically available to all DLA personnel, provided that such discounts or concessions are not used to obtain any item for the purpose of resale at a profit.

F. Participation by DLA personnel in civic and community activities that also involve a DoD contractor, when any relationship between DLA personnel and the contractor is indirect; for example participation in a Little League or Combined Federal Campaign luncheon that is subsidized by a defense contractor.

G. Activities engaged in by DLA personnel with local civic or military leaders as part of authorized community relations programs of DLA.

H. The participation of DLA personnel in widely attended gatherings of mutual interest to Government and industry, sponsored or hosted by industrial, technical, and professional associations (not by individual contractors), provided that they have been approved in accordance with DoD Instruction 5410.20, Public Affairs Relations with Business and Nongovernmental Organizations Representing Business.

I. Situations in which participation by DLA personnel at public ceremonial activities of mutual interest to industry, local communities, and DLA serves the interest of the Government, and acceptance of the invitation is approved by the General Counsel, DLA or PLFA Counsel.

J. When on official Government business and when the DLA personnel reports the circumstances in writing to the immediate supervisor and to the General Counsel, DLA or the PLFA Counsel, as soon as possible:

1. Space available use of previously scheduled ground transportation to or from a DoD contractor's place of business provided by the contractor for its own employees, and

2. Contractor-provided transportation, meals, or overnight accommodations when arrangements for Government or commercial transportation, meals, or accommodations are clearly impracticable.

K. Attendance or participation of DLA personnel in gatherings, including social events such as receptions, which are hosted by foreign governments (when not acting in their DoD contractor capacity) or international organizations, provided that the acceptance of the invitation is approved by the General Counsel, DLA or PLFA Counsel.

L. Customary exchanges of gratituities between DLA personnel and their friends and relatives or the friends and relatives of their spouse, minor children and members of their household, when the circumstances clearly indicate that it is the relationship, rather than the business of the person concerned, that is the motivating factor for the gratuity and it is clear that the gratuity is not paid for by the United States Government or any DoD contractor.

M. Acceptance of coffee, doughnuts, and similar refreshments of nominal value offered as a normal courtesy incidental to the performance of duty. This exception applies to acceptance on an occasional basis and does not authorize acceptance on a recurring basis.

N. The acceptance of benefits resulting from the business activities of a spouse where it is clear that the benefits are given to the spouse in the normal course of the spouse's employment or business and have not been given or made more attractive because of the DLA employee's status. This exception does not, however, alter the requirement for disqualification under § 1293.7(c)(1).

O. Acceptance of transportation and related travel expenses from a potential employer in connection with a job interview, provided that prior to departing on the trip:

1. The DLA employee receiving the gratuity notifies his or her immediate supervisor of the travel arrangements.

2. The DLA employee files a written disqualification statement concerning any possible official actions involving the potential employer.

3. The DLA employee submits some evidence that the potential employer offers the same benefits to all similarly situated individuals, not only those employed in the Department of Defense.

P. Situations in which, in the sound judgment of both the individual involved and his or her immediate supervisor, the Government's interest will be served by DLA personnel participating in activities otherwise prohibited. In any such case, a written report of the circumstances shall be made in advance, or, when an advance report is not possible, within 48 hours, by the individual or supervisor to the General Counsel, DLA or PLFA Counsel.

II. Defense Contracting Training

The guidance in subparagraphs A through C of this section applies whenever defense contractors provide training, orientation, or refresher courses to DLA personnel. These courses range from executive orientation courses in which all expenses are borne by the defense contractor to seminars devoted to technical developments in which the only "gratuity" may be lectures given free of charge.

A. Attendance by DLA employees at training sessions provided by defense contractors is permitted when the contractor's products or systems are provided under contract to DoD and the training is to facilitate the utilization of those products or systems by DLA personnel.

B. When a defense contractor provides training pursuant to a contract, the training itself is not a gratuity. Likewise, meals,

lodging, and transportation would not be considered a gratuity if the defense contractor was required to furnish them under the terms of the contract, but would result in reductions to the travel and other expenses normally payable to the employee under the Joint Federal Travel Regulation. However, if the defense contractor, without charge, provides something to DLA personnel which is not required by the contract, the contractor is giving a gratuity to the DLA employee.

C. Attendance at tuition-free training, refresher courses, or other educational meetings offered by a defense contractor (although not required to do so by the terms of a contract) may be authorized when attendance is clearly in the best interests of the Government and meets the following criteria of DLAR 1430.12, Civilian Employee Development and Training: [6]

1. Selection of the DLA employees attending the contractor training will be made by the Government.

2. The unavailability of alternative training sources, and confidence that the contractor provided training will not adversely affect the objectivity of the DLA employee.

3. Approval of the training is at a sufficiently high level to assure the need cannot otherwise reasonably be met and has the concurrence of the General Counsel, DLA or PLFA Counsel.

4. No appreciable cost is incurred by the contractor in order to accommodate attendance by DLA employees.

5. An understanding that the contractor will receive no special consideration or benefit because of the Government's participation.

III. Reimbursements

DLA personnel may not accept either personal reimbursement or in kind accommodations, subsistence, transportation, or services for expenses incident to official travel, from any source outside the Government except as indicated in subparagraphs A through F of this section. In cases where acceptance is authorized, appropriate deductions will be made in the travel, per diem, or other allowances payable to the employee. In no event will DLA personnel accept benefits which are excessive.

A. A DLA employee who is to be a speaker, panelist, project officer, or other bona fide participant in the activity attended, may accept accommodations, subsistence, transportation, or other services furnished in-kind in connection with official travel when such attendance and acceptance are authorized by the order-issuing authority as being in the overall Government interest. Under these circumstances, an employee may not accept personal reimbursement.

B. When a DLA employee is summoned to testify in an official capacity on behalf of a private party at a judicial proceeding, the appearance will be on official time and travel expenses may be accepted from the court, authority, or party who caused the person to be summoned. In accordance with 5 U.S.C. 5751, the funds may be turned over to the agency and Government travel orders issued or the employee may use the funds to defray costs directly. Any excess funds must be returned to the party or paid into the U.S. Treasury as miscellaneous receipts. Any employee appearing on behalf of a private party not in an official capacity must use leave to do so and may retain any fees or expenses.

C. Except as indicated in subparagraphs A and B of this section, DLA personnel may not accept personal reimbursement from any source for expenses incident to official travel, unless authorized by their supervisor consistent with guidance provided by the Designated Agency Ethics Official or Deputy Ethics Official pursuant to 5 U.S.C. 4111 or other statutory authority. Rather reimbursement must be made to the Government by check payable to DLA.

D. DLA personnel may accept travel, or reimbursement for travel expenses from a foreign government as provided in DLAR 1005.1, Decorations and Gifts from Foreign Governments.

E. When accommodations, subsistence, or services in kind are furnished to DLA personnel by non-U.S. Government sources, consistent with this paragraph, appropriate deductions shall be reported and made in the travel, per diem, or other allowance payable.

F. DLA personnel who receive gratuities, or have gratuities received on their behalf, in circumstances not in conformance with the standards of Part 1293, shall promptly report the circumstances to the Designated Agency Ethics Official or Deputy Ethics Official for disposition determination.

IV. Ship Launch and Similar Ceremonies

The following guidance applies to ceremonies and gifts associated with the launch or commissioning of a naval vessel, an aircraft or other vehicle, and all similar events:

A. Attendance at Ceremonies

Acceptance of an invitation to attend a ceremony shall be approved by the Head of the PSE or PLFA. Attendance is permitted at appropriate functions incident to the ceremony, such as a dinner preceding the ceremony and the reception following it, as long as the function is not lavish, excessive, or extravagant.

B. Acceptance of Gifts

DLA personnel, their spouses, and their dependent children, who are official participants may accept a tangible thing of value as a gift or memento in connection with the ceremony as long as its retail value does not exceed $100 per family and the cost is not borne by the Government. When a gift exceeds the $100 limit the recipient shall pursue one of the following alternatives:

1. Return the gift to the donor.

2. Retain the gift after reimbursing the donor the full value of the gift.

3. Forward the gift to the Staff Director, Administration (DLA-X) for disposition as a gift to the Government in accordance with statute.

[6] See footnote 1. to § 1293.3(c)(1)(ii).

Appendix D to Part 1293—Executive Personnel Financial Disclosure Report (SF 278)

I. DLA Personnel Required to File SF 278

A. DLA personnel required to file a Financial Disclosure Report (SF 278) are listed at section 1293.7(d)(1). These personnel occupy "covered positions."

B. A person who is nominated to or assumes a covered position is not required to file an SF 278 if the Secretary of Defense or the General Counsel, DLA determines that the person is not reasonably expected to perform the duties of the position for more than 60 days in the calendar year. However, if the person performs the duties of the office or position for more than 60 days in the calendar year, an SF 278 shall be filed within 15 days after the 61st day of duty.

C. A person otherwise required to file an SF 278, but who is expected to perform the duties of the position for less than 130 days in the calendar year, may request a waiver of any or all reporting requirements from the Director, Office of Government Ethics, if the person is not a full-time employee of the Government, is able to provide specially needed services, and does not have outside employment or financial interests likely to create a conflict of interest. A request for a waiver shall be initially submitted to the General Counsel, DLA.

II. Time of Filing

An SF 278 shall be submitted under the circumstances described below.

A. Assumption Report

DLA personnel shall submit a SF 278 to the General Counsel, DLA before assuming a covered position. This requirement does not apply if the individual has left another covered position within 30 days before assuming a new position, or already has filed with respect to nomination for the new position.

B. Annual Report

DLA personnel, including special Government employees, occupying a covered position for more than 60 days during a calendar year shall submit an SF 278 annually. The annual report must be filed with the General Counsel, DLA not later than 15 May unless a written extension is granted.

C. Termination Report

DLA personnel occupying a covered position shall submit an SF 278 to the General Counsel, DLA no sooner than 15 days before and no later than 30 days after the date of departure from that position unless they accept another covered position. The termination report will cover the portion of the present calendar year up to the date of termination and, if the annual report has not yet been filed, the preceding calendar year.

III. Contents of Reports

Instructions for completing SFs 278 are included as part of the report forms. Additional guidance for personnel in covered positions is available from the General Counsel, DLA.

IV. Submission and Review of Reports

A. Reports will be submitted to the General Counsel, DLA. After final review, copies of the reports of military officers assigned to DLA will be forwarded by the General Counsel, DLA to the appropriate Military Department official.

B. Final review of an SF 278 is completed when the Genral Counsel, DLA has signed the SF 278, indicating that each item is completed and that the report discloses no unresolved conflict or appearance of a conflict of interest under applicable laws and regulations.

1. If the General Counsel, DLA, after reviewing an SF 278, believes additional information is required, the reporting individual shall be notified of the additional information required and the date by which it must be submitted. The reporting individual shall submit the required information directly to the General Counsel, DLA.

2. If the General Counsel, DLA, after reviewing the SF 278, is of the opinion, on the basis of information submitted, that the reporting person is not in compliance with applicable laws and regualtions, the following steps shall be taken:

a. The person shall be notified in writing of the preliminary determination.

b. After an opportunity for personal consultation, if practicable, the General Counsel, DLA shall notify the person in writing of the remedial measures that should be taken to bring the person into compliance. The notification shall specify a date by which such measures must be taken, which, except in unusual circumstances, must be taken within 90 days.

(1) When the General Counsel, DLA determines that a reporting person has fully complied with the remedial measures, a notation to that effect shall be made in the comment section of the SF 378. The General Counsel, DLA shall then sign and date the SF 278 and send written notice of that action to the person.

(2) If steps assuring compliance with applicable laws and regulations are not taken by the date established, the General Counsel, DLA shall report the matter to the Director, DLA for appropriate action. The Office of Government Ethics and the Attorney General shall also be notified.

3. Remedial action may include the following measures:

a. Disqualification.

b. Limitation of duties.

c. Divestiture.

d. Transfer or reassignment.

e. Resignation.

f. Exemption under 18 U.S.C. 208.

g. Establishment of a qualified blind trust.

V. Public Availability of SFs 278

A. SFs 278 must be made available for public examination upon request 15 days after the report is filed unless otherwise exempted pursuant to law. Receipt of the report by the General Counsel, DLA for final review constitutes official filing and establishes the date from which the 15 days shall run. In most cases, this means the reports are available to the public before final review is completed. Reporting persons are personally responsible for ensuring that their reports are accurate, complete, and timely.

B. Any request for an SF 278 must be in writing and state:

1. The person's name, occupation, and address.

2. The name and address of any other person or organization on whose behalf the inspection or copy is requested.

3. That the person is aware that it is unlawful to obtain or use the report for:

a. Any unlawful purpose.

b. Any commercial purpose, other than by news and communications media for dissemination to the general public.

c. Determining or establishing the credit rating of any individual.

d. Use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

VI. Retention of SFs 278

SFs 278 shall be retained for 6 years from the date of filing.

VII. Penalties

Compliance with the financial disclosure provisions shall be enforced by adminstrative, civil, or criminal remedies, which include:

A. Action Within the DoD Component

The Director, DLA may take appropriate action, including a change in assigned duties or adverse action, in accordance with applicable law or regulation, against any person who fails to file an SF 278, or who falsifies or fails to report required information.

B. Action by the Attorney General

The General Counsel, DLA is required to refer to the Attorney General the name of any person whom he or she has reasonable cause to believe has failed willfully to file an SF 278 on time or has falsified or failed willfully to file information required to be reported. Such referral does not bar additional administrative or judicial enforcement. The Attorney General may bring a civil action in the U.S. District Courts against any person who knowingly and willfully falsifies or fails to file or report any required information. The court may assess a civil penalty not to exceed $5,000. Knowing or willful falsification of information required to be filed also may result in criminal prosecution under 18 U.S.C. 1001, leading to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both.

C. Misuse of Reports

1. The Attorney General may bring a civil action against a person who obtains or uses an SF 278 filed under the Ethics in Government Act for any of the following reasons:

a. Any unlawful purpose.

b. Any commercial purpose, other than by news and communications media for dissemination to the general public.

c. Determining or establishing the credit rating of any individual.

d. Directly or indirectly, for the solicitation of money for any political, charitable, or other purpose.

2. The court in which such action is brought may assess a penalty in any amount not to exceed $5,000. This is in addition to any other legal remedy available.

Appendix E to Part 1293—Requirements for Submission of DD Form 1555, Statement of Affiliations and Financial Interests

I. DLA Personnel Required To Submit Statements

A. DLA personnel required to file Statements of Affiliations and Financial Interests (DD Forms 1555) are those indicated in § 1293.7(d)(2).

B. Special Government Employees (as defined in § 1293.4(i)).

1. Special Government employees, including Reserve military officers assigned to positions requiring the submission of a DD Form 1555 shall file a DD Form 1555 prior to performing the duties of the position.

2. The following categories of special Government employees are not required to file DD Forms 1555 unless they are specifically notified that they must do so:

a. Physicians, dentists, and allied medical specialists engaged only in providing service to patients.

b. Veterinarians providing only veterinary services.

c. Lecturers participating only in educational activities.

d. Chaplains performing only religious services.

e. Individuals in the motion picture and television fields who are utilized only as narrators or actors in DLA productions.

f. A special Government employee who is not a "consultant" or "expert" as those terms are defined in the Federal Personnel Manual, Chapter 304.

II. Review of Positions

Immediate supervisors shall annually review each civilian and military position under their supervision, determine whether the position requires the incumbent to file a DD Form 1555, and will notify each employee of the determination. The position description of each position shall state whether or not the incumbent must file a DD Form 1555. Any individual may request a review of the determination requiring submission of a DD Form 1555 from the Deputy Ethics Official. In the event the employee is dissatisfied with this decision, there is an appeal right to the Designated Agency Ethics Official, whose decision shall be final.

III. Manner of Submission

A. Time of Submission

1. Employees will file a DD Form 1555 for review and approval prior to performing the duties of a position that requires filing of a DD Form 1555. Reserve Officers shall file the form upon reporting for duty. If an employee has filed a DD Form 1555 by virtue of a previous position, a copy of the previously submitted form may be submitted to the new supervisor for review rather than filing a new DD Form 1555.

2. DD Forms 1555 shall annually be filed by 31 October each year for all affiliations and financial interests as of the 30th of September of that year. Even if no changes occur from

the previous year, a new and complete DD Form 1555 is required to be filed each year.

3. *Excusable Delay.* When required by reason of duty assignment or infirmity, a supervisor may grant an extension of time with concurrence of the DAEO or Deputy Ethics Official. Any extension in excess of 30 days requires the concurrence of the Designated Agency Ethics Official. Any late DD Forms 1555 shall include appropriate notation of any extension of time granted hereunder.

B. To Whom Submitted

1. *HQ DLA.* a. Heads of PSEs required to file DD Forms 1555 will submit them through the General Counsel, DLA to the Director, DLA.

b. Deputy Heads of PSEs required to file DD Forms 1555 will submit them to the Head of the PSE for review and evaluation. After resolution of any conflict, the DD Forms 1555 will be forwarded to the General Counsel, DLA.

c. Other officers and employees of HQ DLA, and their management support activities, will submit DD Forms 1555 to their immediate supervisor for review and evaluation. Upon completion of their review and resolution of any conflicts, supervisors will forward the DD Forms 1555 to the General Counsel, DLA.

2. *Field activities with assigned DLA Counsel.* a. Heads of PLFAs required to file DD Forms 1555 will submit them through the General Counsel, DLA to the Director, DLA.

b. Deputy Heads of PLFAs required to file DD Forms 1555 will submit them to their immediate supervisors for review and evaluation. After resolution of any conflict, the forms will be submitted to the General Counsel, DLA.

c. Other officers and employees of PLFAs or subordinate activities required to file DD Forms 1555 will submit them to their immediate supervisors for review and evaluation. After resolution of any conflict, the forms will be forwarded to the appropriate Deputy Ethics Official.

d. Counsel for PLFAs will submit DD Forms 1555 to the Head of the PLFA for review and evaluation. After resolution of any conflict, the forms will be forwarded to the General Counsel, DLA.

e. Heads of DLA activities subordinate to PLFAs, when required to file DD Forms 1555, will submit the forms to the Head of the PLFA, who will review and evaluate, and forward to the appropriate Deputy Ethics Official after resolution of any conflict.

f. Counsel for DLA activities subordinate to a PLFA will submit DD Forms 1555 to the activity Head for review, evaluation, and resolution of any conflict. The forms will be forwarded to the Counsel of the PLFA.

3. *Management Support Activities.* a. Heads of Management Support Activities will submit DD Forms 1555 to their immediate supervisors for review and evaluation. After resolution of any conflict, the forms will be submitted to the General Counsel, DLA.

b. Other officers and employees of Management Support Activities will submit them to their immediate supervisors for review and evaluation. After resolution of any conflict, the forms will be forwarded to the Deputy Ethics Official of the PLFA providing personnel services to the Management Support Activity.

4. *Detailed employees.* Agreements with other DoD Components and Government agencies shall contain a requirement that the other Component agency shall, within 60 days, forward to the General Counsel, DLA a copy of the detailed individual's DD Form 1555, if required, and notice concerning the disposition of any conflict or apparent conflict of interest indicated.

C. Content of Report

1. Instructions for completing the DD Form 1555 are included as a part of the form. Additional guidance may be obtained from the Designated Agency Ethics Official or Deputy Ethics Official.

2. The interest of a spouse, minor child, or any member of the employee's household shall be reported as if it were the interest of the employee. The interests of a spouse need not be reported if the employee and spouse have:

a. A final decree of separation,

b. An interim or interlocutory decree, or

c. A separation agreement formally executed by the employee and spouse in anticipation of its incorporation into a final decree of divorce or separation.

3. DLA personnel are not required to submit on a DD Form 1555 any information relating to their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization, or a similar organization not conducted as a business for profit. However, educational or other institutions doing research and development or related work involving grants of money or contracts with the Government must be reported.

4. Ownership of personal savings or checking accounts in financial institutions, shares in credit unions or savings and loan associations, life or property insurance policies and shares in widely held diversified mutual funds or regulated investment companies need not be reported.

5. An employee need not disclose the assets of, sources of income of, or transactions of, a trust if:

a. The trust is a qualified blind or qualified diversified trust certified by the Office of Government Ethics and is otherwise reported on the DD Form 1555 by name of trust and date of execution, or

b. The trust is an "excepted" trust, defined as follows:

(1) A trust that was not created by the DLA employee, or the employee's spouse, or dependent child;

(2) A trust that consists of withholdings or sources of income of which the officer or employee, or spouse, or dependent child have no knowledge, and

(3) Which is disclosed as an asset or income source on the report.

6. DLA personnel shall request submission on their behalf of required information known only to other persons; for example, holdings of spouse or other members of the household, executor of any estate, or trustee. The submissions may be made with a request for confidentiality that will be honored even if it includes a limitation on disclosure to the DLA employee concerned.

D. *Confidentiality of DD Forms 1555 of DLA personnel.* Each DD Form 1555 shall be held in confidence. Information from a DD Form 1555 may not be disclosed except as the Designated Agency Ethics Official or the Office of Government Ethics may determine for good cause. Persons designated to review the DD Forms 1555 are responsible for maintaining the statements in confidence and shall not allow access to or disclosure from the DD Forms 1555 except to carry out the purpose of Part 1293.

E. *Effect of statements on other requirements.* The DD Form 1555 required of DLA personnel is in addition to, and not in substitution for, any similar requirement imposed by statute, Executive Order, or regulation. Submission of a DD Form 1555 does not permit DLA personnel to participate in matters in which their participation is prohibited by statute, Executive Order, or regulation.

F. *Review of DD Forms 1555.* 1. The filing employee's immediate supervisor reviews the DD Form 1555 to evaluate whether there is a conflict or apparent conflict between the employee's private financial interests and his or her official responsibilities. The immediate supervisor records the results of the evaluation in block 13. Heads of PSEs and PLFAs will perform the initial review of their deputies' DD Forms 1555 before forwarding them to the General Counsel, DLA. Heads of PLFAs perform the initial review of the PLFA Counsel's forms. After review and completion of the supervisor's statement, the DD Form 1555 should be forwarded to the Designated Agency Ethics Official or Deputy Ethics Official, as appropriate, for final review and filing.

2. DD Forms 1555 shall be reviewed to assure that:

a. Each item is completed, and

b. No interest or position disclosed on the form violates or appears to violate any of the following:

(1) Any applicable provision of Chapter 11 of Title 18 of the United States Code (Part 1).

(2) The "Ethics in Government Act of 1978," as amended, and any regulations promulgated thereunder.

(3) Executive Order 11222 as amended, and any regulations promulgated thereunder.

(4) Any other related statute or regulation applicable to the employees of the agency.

3. The supervisor need not audit the report to ascertain whether the disclosures are correct; disclosures are to be taken at "face value" unless there is a patent omission or ambiguity or the official has independent knowledge of matters outside the report. The supervisor's signature shall signify that he or she has found that the information in the report discloses no conflict of interest under applicable laws and regulations and that the report fulfills the requirements set out in IIIF2, above.

4. If the supervisor believes that additional information is required, the reporting individual shall be notified of the additional information required and the date by which it must be submitted.

5. Whenever the supervisor's review of a DD Form 1555 discloses a conflict or an apparent conflict of interest, the employee

concerned will be given an opportunity to explain the conflict or apparent conflict to the immediate supervisor. Resolution of a conflict or apparent conflict will be made under § 1293.7(b). If the conflict or apparent conflict cannot be resolved by the supervisor, it will be forwarded, along with a copy of the employee's current position description, to the Designated Agency Ethics Official or Deputy Ethics Official, as appropriate, for resolution.

6. If the supervisor concludes that the report is completed properly and that no item violates, or appears to violate, applicable statute or regulation, then such official shall sign and date the report.

G. *Remedial action.*

1. Whenever the designated Agency Ethics Official or Deputy Ethics Official concludes that the filing individual is not in compliance with applicable laws or regulations, the Designated Agency Ethics Official or Deputy Ethics Official shall do the following:

a. Notify the reporting individual of the preliminary determination.

b. Afford the reporting individual an opportunity for personal consultation, if practicable.

c. Determine what remedial action should be taken to bring the reporting individual into compliance.

d. Notify the reporting individual of the remedial action required, indicating a date by which that action must be taken.

2. Except in unusual situations, which must be documented fully to the satisfaction of the appropriate ethics official, remedial action shall be completed within 90 days from the date the reporting individual was notified that the action is required.

3. Remedial action includes any of the following measures:

a. Disqualification.

b. Limitation of duties.

c. Divestiture.

d. Transfer or reassignment.

e. Resignation.

f. Exemption under 18 U.S.C. 208.

g. Establishment of a qualified blind trust.

4. When the ethics official determines that a reporting person has complied fully with the remedial measures, a notation to that effect shall be made in the comment section of the DD Form 1555. The ethics official then shall sign and date the form and send written notice of that action to the reporting individual.

5. If steps ensuring compliance with applicable laws and regulation are not taken by the date established, the ethics official shall report the matter to the General Counsel, DLA for appropriate action.

H. *Retention of statements.* DD Forms 1555 shall be retained for 6 years from the date of filing.

I. *Penalties—1. Administratives penalties.* Any individual failing to file a report or falsifying or failing to file required information, may be subject to any appropriate personnel or other action in accordance with applicable law or regulation, including adverse action.

2. *Criminal liability.* Any individual who knowingly or willfully falsifies information on a report required to be filed under this enclosure also may be subject to criminal prosecution under 18 U.S.C. 1001.

Appendix F to Part 1293 Reporting Procedures for DoD and Defense Related Employment

I. Personnel Required To File

The following military officers and civilian employees are required to file a Report of DoD and Defense Related Employment (DD Form 1787):

A. A retired military officer who served on active duty at least 10 years and who held, for any period during that service, the pay grade of O–4 or above, or a former civilian employee whose pay rate at any time during the 3-year period prior to the end of DoD employment was equal to or greater than the minimum rate for a GS–13 (GS–12, step 7), and who:

1. Within the 2-year period immediately following the termination of service or employment with a DoD Component, is employed by a defense contractor who, during the year before the former officer or employee began employment, was awarded $10,000,000 or more in defense contracts; and

2. Is employed by or performs services for the defense contractor and at any time during a year directly receives compensation of or is salaried at a rate of $25,000 per year or more from the defense contractor ("compensation" is received by a person if it is paid to a business entity with which the person is affiliated in exchange for services rendered by that person).

B. Each civilian employee of a DoD Component who:

1. Is employed at a pay rate equal to or greater than the minimum rate for GS–13 (GS–12, step 7),

2. Within the 2-year period prior to the effective date of service or employment with the DoD Component, was employed by a defense contractor who, during a year, was awarded $10,000,000 or more in defense contracts, and

3. Was employed by or performed services for the defense contractor and at any time during that year received compensation from or was salaried at a rate of $25,000 per year or more at any time during employment ("compensation" is received by a person if it is paid to a business entity with which the person is affiliated in exchange for services rendered by the person).

II. Content of Report

Instructions for completing DD Forms 1787 are included as part of the form. A DD Form 1787 appears at the end of this appendix. Additional guidance for personnel required to file is available from the Designated Agency Ethics Official (DAEO) or Deputy Ethics Official.

III. Submission and Review of Reports

A. Time of Filing

1. Current military officers and civilian employees shall file a DD Form 1787 within 30 days after entering employment or service with any DoD Component.

2. Former officers and employees shall file an initial report within 90 days after the date on which the individual began employment with the defense contractor.

3. Former officers and employees shall file subsequent reports each time, during the 2-year period after service or employment with the DoD Component ended, that the person's duties with the defense contractor significantly changes or the person begins employment with another defense contractor. Such reports shall be filed within 30 days after the date of the change.

B. Submission

1. Civilians shall submit their reports to the General Counsel, DLA

2. Former military officers shall submit their report in accordance with the procedures set forth in the following:

a. *Army*—AR 600–50, Standards of Conduct for Department of the Army personnel.

b. *Navy*—SECNAVINST 5314.5A, Reporting Procedures on Defense Related Employment.

c. *Air Force*—AFR 30–14, Procedures for Reporting on Defense Related Employment.

3. The General Counsel, DLA shall review DD Forms 1787 to assure that:

a. Each item is completed, and

b. No interest or position disclosed on the form violates or appears to violate the following:

(1) Any applicable provision of Chapter 11 of Title 18 of the United States Code (Part 1).

(2) The "Ethics in Government Act of 1978," as amended, and any regulations promulgated thereunder.

(3) E.O. 11222 as amended, and any regulations promulgated thereunder.

(4) Any other related statute or regulation applicable to the employees of DLA.

4. The reports need not be audited to ascertain whether the disclosures are correct; disclosures are to be taken at "face value" unless there is a patent omission or ambiguity or the General Counsel, DLA has independent knowledge of matters outside the report.

5. If the General Counsel, DLA believes that additional information is required, the reporting individual shall be notified of the additional information required and the date by which it must be submitted. The reporting individual shall submit the required information directly to the General Counsel, DLA.

6. If the General Counsel, DLA concludes that the report is completed properly and that no item violates, or appears to violate, applicable statute or regulation, then the reports shall be signed and dated.

IV. Remedial Action

A. If the General Counsel, DLA concludes that the filing individual is not in compliance with applicable laws or regulations, he shall:

1. Notify the reporting individual in writing of the preliminary determination;

2. Afford the reporting individual an opportunity for personal consultation, if practicable;

3. Determine what remedial action should be taken to bring the reporting individual into compliance; and

4. Notify the reporting individual in writing of the remedial action required, indicating a date by which that action must be taken.

B. Except in unusual situations, which must be fully documented to the satisfaction of the General Counsel, DLA, remedial action shall be completed within 90 days from the date

the reporting individual was notified that the action is required.

C. Remedial steps may include the following measures:

1. Disqualification.
2. Limitation of duties.
3. Divestiture.
4. Transfer or reassignment.
5. Resignation.
6. Exemption under 18 U.S.C. 208(b).
7. Establishment of a qualified blind trust.

D. When the General Counsel, DLA determines that a reporting person has fully complied with the remedial measures, a notation to that effect shall be made in the comment section of the DD Form 1787. The General Counsel, DLA shall then sign and date the DD Form 1787 and send written notice of that action to the reporting individual.

E. If steps assuring compliance with applicable laws and regulations are not taken by the date established, appropriate remedial action shall be instituted. The Office of Government Ethics shall be notified of the remedial action taken.

V. Public Availability of Reports

DD Forms 1787 must be made available for public examination upon request 15 days after the report is filed unless otherwise exempted pursuant to law. Receipt of the report for final review constitutes official filing and establishes the date from which the 15 days shall run. In most cases, this means the reports are available to the public before final review is completed. Reporting persons are personally responsible for ensuring that their reports are accurate, complete, and timely.

VI. Retention of Reports

DD Forms 1787 shall be retained for 6 years from the date of filing.

VII. Penalties

A. Administrative penalties

Any individual failing to file a report or falsifying or failing to file required information, may be subject to any appropriate personnel or other action in accordance with applicable law or regulation, including adverse action. Administrative penalty of up to $10,000 may also be imposed.

B. Criminal Liability

Any individual who knowingly or willfully falsifies information on a report required to be filed under this subpart may be also be subject to criminal prosecution under 18 U.S.C. 1001.

Appendix G to Part 1293 Administrative Enforcement Provisions

I. Applicability and Scope

A. These provisions shall apply to all DLA Activities.

B. This appendix is adopted pursuant to 18 U.S.C. 207 and 10 U.S.C. 2397, 2397a, and 2397c which require the Department of Defense to develop administrative procedures for the review and disposition of reported violations of post employment restrictions and reporting requirements.

C. The procedures set forth in this appendix may be used, at the discretion of the General Counsel, DLA, to accomplish administrative enforcement of all statutes and regulations which would require or allow their use.

II. Policy

A. Administrative Procedure Act (APA)

In cases in which an APA hearing is required by statute, APA rules shall be used.

B. Rules of Evidence

In the discretion of the hearing examiner, the rules of evidence may be relaxed from those established in the Federal Rules of Evidence. Evidence must be relevant and material to be considered.

C. Burden of Proof

The DLA bears the burden of proof. A violation must be established by substantial evidence.

D. Protection of Privacy

The privacy of suspected individuals or entities shall be protected by safeguarding information concerning allegations and evidence, especially before initiation of administrative disciplinary action.

E. Reporting Suspected Violations

1. If any DLA officer or employee has reason to suspect that an individual or entity has violated a statute or regulation referred to in Part 1293 the suspicion shall be reported immediately to the General Counsel, DLA or to the Counsel of the PLFA affected.

2. If other individuals have reason to suspect that an individual or entity has violated a statute or regulation, the suspicion may be reported to any DoD officer or employee.

III. Responsibilities

A. The General Counsel, DLA, shall:

1. Administer the provisions of this appendix.

2. Receive reports of alleged violations from the Inspector General, Department of Defense (IG, DoD).

3. Receive memoranda of results of preliminary investigations from the IG, DoD.

4. Review copies of reports and memoranda from the IG, DoD, to determine if it is reasonable to believe there may have been a violation.

5. Provide copies of reports and memoranda regarding cases where it is reasonable to believe there may have been a violation, to the Director, Office of Government Ethics (OGE).

6. Provide copies of reports and memoranda regarding cases where it is reasonable to believe there may have been a violation, to the Criminal Division, Department of Justice (DoJ).

7. Coordinate investigations and administrative disciplinary actions with the DoJ Criminal Divisions, unless DoJ advises that criminal proceedings will not be pursued.

8. Initiate administrative disciplinary action, in cases where it is reasonable to believe there may have been a violation, by providing the suspected individual or entity with notice as described in IVB, below.

9. Request the Heads of DLA PLFAs or PSEs in which the case arose to appoint a Government representative to present evidence of violations.

10. In cases not subject to the APA, appoint a hearing examiner.

11. Receive written appeals from suspected individuals or entities.

12. Make appeal decisions, when appeals are timely submitted, after reviewing the findings of facts and decision of the hearing examiner and the appeal.

13. Impose administrative disciplinary sanctions when applicable.

14. Mail copies of appeal decisions and/or any sanctions to be imposed to the suspected individuals of entities along with statements notifying of the right to seek judicial review of administrative decisions.

15. Submit written reports of suspected violations, when the information regarding the violations is not frivolous, directly to the IG, DoD, and not through ordinary DoD Component channels.

B. The Hearing Examiner shall:

1. Hear each case in accordance with the hearing procedures specified in subparagraph 4, of this Section IV.

2. Make a written report of all findings of fact and conclusions of law, including mitigating factors.

3. Make a written decision and recommendation of administrative disciplinary sanctions to be imposed.

4. Submit the report, the decision, and any recommendations to the General Counsel, DLA through the Head of the cognizant PLFA or PSE.

5. Mail a copy of the report, the decision, and any recommendations to the suspected individual and General Counsel, DLA.

IV. Procedures.

A. Initiation of Administrative Disciplinary Action

1. Administrative disciplinary actions are initiated by providing suspected individuals or entities with notice of the report of a violation and notice of the intention to begin administrative disciplinary proceedings at least 20 calendar days prior to the beginning of such proceedings.

2. When hearings are required by statute, a hearing shall be conducted before imposition of administrative disciplinary sanctions unless the suspected individual or entity waives the hearing in writing in accordance with subparagraphs D2c and d, of this Section IV.

3. When hearings are not required by statute, a hearing may be requested in writing by the suspected individual or entity in accordance with subparagraphs D2e and f, of this Section IV.

B. Content of Notice

Notice to initiate administrative disciplinary proceedings shall include the following:

1. A statement of allegations, and the basis thereof, sufficiently detailed to enable the suspected individual or entity to prepare an adequate defense.

2. Notification of the right to a hearing when a hearing is required by statute.

3. The procedure for waiving the right to appear at the hearing when a hearing is required by statute.

4. A copy of a written waiver that shall include a statement that the signer understands that the signer has the right to appear at a hearing and that administrative disciplinary sanctions may be imposed even if the signer does not appear at a hearing.

5. When a hearing is not required by statute, a statement to the effect that if the suspected individual or entity fails to request such a hearing in writing, the DLA may initiate administrative disciplinary action which may result in imposition of administrative disciplinary sanctions.

6. The procedure for requesting a hearing when a hearing is not required by statute.

7. Notice that the failure to appear at a scheduled hearing shall constitute a constructive waiver of the right to appear at the hearing.

8. The date, time, and place of a scheduled hearing; however, suspected individuals or entities shall be scheduled to appear for hearings in the Federal judicial district in which the individual or entity resides or in the Federal judicial district in which the alleged violation occurred.

9. A statement of hearing rights in accordance with subparagraph D of this Section IV.

10. A copy of these Administrative Enforcement Provisions.

C. Hearing Examiners

1. Hearing examiners shall be attorneys with not less than 3 years experience in the practice of law subsequent to admission to the bar.

2. A hearing examiner shall be impartial. An individual who has participated in the decisions to initiate proceedings shall not serve as a hearing examiner in those proceedings.

3. In cases not subject to the APA, the General Counsel, DLA, shall appoint a hearing examiner.

4. In cases subject to the APA, Administrative Law Judges (ALJ) shall be used as hearing examiners. The General Counsel, DLA, shall forward a written request to the office of Administrative Law Judges, Office of Personnel Management. (See 5 U.S.C. 3344.) The request shall contain the following:

a. The requisite authority requiring an APA hearing for the particular statutory violation.

b. The status of the case.

c. The tentative hearing data.

d. The point of contact within the DLA.

e. An acknowledgment that the request is being made on a reimbursable, intermittent basis.

D. Hearings

1. The hearing examiner shall have the power to do the following:

a. Administer oaths and affirmations.

b. Issue subpoenas authorized by law.

c. Rule on offers of proof and recieve relevant evidence.

d. Take depositions or have depositions taken when justice shall be served.

e. Regulate the course of the hearing.

f. Hold conferences for the settlement or simplification of the issues by comment from the suspected individual or entity and the Government representative.

g. Dispose of procedural requests or similar matters.

h. Make decisions, in writing, on the merits of the particular case, as well as written recommendations of administrative disciplinary sanctions.

2. Suspected individuals and entities shall have hearing rights which include the following:

a. The right to self representation, or to be represented by counsel.

b. The right to introduce evidence and witnesses and the right to examine adverse witnesses.

c. The right to stipulate to facts.

d. The right to present oral argument.

e. The right to receive a transcript or recording of the proceedings upon request.

f. Additional rights that may be in the Administrative Procedure Act, if applicable.

3. Before the hearing examiner makes a decision, or the General Counsel, DLA, makes an appeal decision, the suspected individual or entity and the Government representative may submit the following material for consideration:

a. Proposed findings and conclusions.

b. Exceptions to the decisions of the hearing examiner, or to the tentative decisions of the GC, OSD.

c. Supporting reasons for the exceptions or proposed findings or conclusions.

4. The record shall reflect the ruling on each finding, conclusion, or exception. All decisions by the hearing examiner or the General Counsel, DLA, shall be a part of the record, along with the reasons and basis for such findings and decisions.

E. Appeals

1. Within 20 days following the date on the report and recommendations from the hearing examiner, the suspected individual or entity may file an appeal with the General Counsel, DLA. An appeal shall be in writing, and shall set forth all errors of act, law, or both, together with the reasons, alleged to exist in the report from the hearing examiner.

2. Extensions of time to file an appeal may be granted at the discretion of the General Counsel, DLA, upon receipt of written request for an extension from the individual or entity concerned.

3. The General Counsel, DLA shall make a written appeal decision if any appeal is submitted timely, after reviewing the report of findings of facts, the decision, and recommendations from the hearing examiner.

4. If the appeal decision is not in accordance with the report of findings of facts, the decision, or recommendations from the hearing examiner, the reasons shall be specified.

5. The decision of the General Counsel, DLA, shall be the final administrative determination. The appeal decision shall be mailed to the suspected individual or entity along with a statement, if applicable, that the individual or entity may seek judicial review of the administrative determinations.

F. Administrative Sanctions

1. The General Counsel, DLA, may take appropriate disciplinary action when indicated by the outcome of a case involving a violation of 18 U.S.C. 207 by:

a. Prohibiting the individual or entity from making on behalf of any other person except the United States, any formal or informal appearance before, or any oral or written communication with the intent to influence, to the Department of Defense, its officers or employees, on any matter of business for a period not to exceed 5 years. This may be enforced by directing DoD officers and employees to refuse to participate in any such appearance, or to accept any such communication.

b. Barring the individual or entity from employment by the Department of Defense for a period not to exceed 5 years.

2. The General Counsel, DLA, may take appropriate disciplinary action whenever indicated by the outcome of a case involving violations of 10 U.S.C. 2397, 2397a, or 2397c by:

a. Imposing and administrative penalty, not to exceed $10,000.

b. With respect to violations of 10 U.S.C. 2397a, imposing an additional administrative penalty of a particular amount if the individual is determined to have accepted or continued employment with a defense contractor during the 10-year period beginning with the date of separation from Government service.

3. The General Counsel, DLA, may take other appropriate disciplinary action when indicated by the outcome of a case in accordance with the laws or regulations violated.

G. Judicial Review

Any individual or entity found in violation as described, and against whom an administrative sanction is imposed, may seek judicial review of the final administrative determination.

[FR Doc. 88-25977 Filed 11-9-88; 8:45 am]

BILLING CODE 3620-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-74; RM-6063]

Radio Broadcasting Services; Sheridan, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 275C2 for Channel 272A at Sheridan, Arkansas, and modifies the Class A license of Ainsley Communications, Corp. for Station KQLV(FM), as requested, to specify operation on the higher class channel, thereby providing that community with its first wide coverage area FM service. Reference coordinates for Channel 275C2 at Sheridan are 34-15-33 and 92-34-56. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 19, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–74, adopted September 30, 1988, and released November 4, 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.

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 Arkansas, is amended by revising the entry for Sheridan by deleting Channel 272A and adding Channel 275C2.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–26097 Filed 11–9–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–77; RM–5900]

Radio Broadcasting Services; Key West, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Key Chain, Inc., substitutes Channel 228C2 for Channel 228A at Key West, Florida, and modifies its license for Station WKRY(FM) to specify operation on the higher powered channel. Channel 228C2 can be allotted to Key West in compliance with the Commission's minimum distance separation requirements and can be used at Station WKRY(FM)'s present transmitter site. The coordinates for this allotment are North Latitude 24–34–18 and West Longitude 81–45–19. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 19, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–77, adopted September 23, 1988, and released November 3, 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.

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 FM Table of Allotments for Florida is amended by revising the entry for Key West by deleting Channel 228A and adding Channel 228C2.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–26098 Filed 11–9–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–220; RM–6220]

Radio Broadcasting Services; Hilo, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 224C1 for Channel 224A at Hilo, Hawaii and modifies the construction permit (BPH841228MH) of Station KHHI (FM) to specify operation on the higher class channel. Channel 224C1 can be used at KHHI's current transmitter site at coordinates 19–43–51 and 155–04–11. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 19, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–220, adopted September 30, 1988, and released November 3, 1988. The full text of this Commission decision is availabl 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.

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 is amended under Hawaii by deleting Channel 224A and adding Channel 224C1 at Hilo.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–26099 Filed 11–9–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–125; RM–6140]

Radio Broadcasting Services; Kailua-Kona, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 229C1 for Channel 228A at Kailua-Kona, Hawaii, and modifies the construction permit for Station KLUA(FM) to specify Channel 229C1, at the request of Fakas Broadcasting. The coordinates for Channel 229C1 at Kailua-Kona are 19–43–15 and 155–55–16. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 19, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–125, adopted September 30, 1988, and released November 3, 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.

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 is amended under Hawaii by deleting 228A and adding 229C1 at Kailua-Kona.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-26101 Filed 11-9-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-381; RM-5352, RM-5663]

Radio Broadcasting Services; Folsom and Bogalusa, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 285A to Folsom, Louisiana, as that community's first local FM service, as requested by Folsom Community Broadcasters. A site restriction of 10.1 kilometers (6.3 miles) east of the community is required. The coordinates for the restricted site are 30-38-24 and 90-04-56. This action further denies the counterproposal of Timberlands Broadcasting Corporation for Bogalusa, Louisiana RM-5663). With this action, this proceeding is terminated.

DATES: Effective December 19, 1988; this window period for filing applications will open on December 20, 1988, and close on January 19, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No 86-381, adopted October 11, 1988, and released November 4, 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.

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, is amended under Louisiana by adding Channel 258A to Folsom.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-26102 Filed 11-9-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-336; RM-5672]

Radio Broadcasting Services; North Windham, ME

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 294A to North Windham, Maine, in response to a petition filed by Kollen Dodge. Petitioner filed supporting comments. There is a site restriction 1.2 kilometers west of the community. Canadian concurrence has been obtained for the allotment of Channel 294A at North Windham at coordinates 43-50-05 and 70-27-13. With this action, this proceeding is terminated.

DATES: Effective December 19, 1988; the window period for filing applications will open on December 20, 1988, and close on January 19, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-336, adopted September 30, 1988, and released November 4, 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.

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. In § 73.202(b), the Table of FM Allotments is amended under Maine by adding Channel 294A at North Windham.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-26103 Filed 11-9-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-39; RM-6151]

Radio Broadcasting Services; Okmulgee and Stillwater, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the joint request of Brewer Communications, Inc., licensee of Station KOKL-FM, Channel 232A, Okmulgee, Oklahoma, and Stillwater Publishing Company, Inc., licensee of Station KSPI-FM, Channel 230C, Stillwater, Oklahoma, substitutes Channel 231C2 for Channel 232A at Okmulgee and substitutes Channel 229C2 for Channel 230C at Stillwater, Oklahoma. In addition, the Commission modifies the licenses of Stations KOKL-FM and KSPI-FM to specify operation on Channels 231C2 and 229C2, respectively. Channel 231C2 can be allotted to Okmulgee in compliance with the Commission's minimum distance separation requirements with a site restriction of 27.5 kilometers (17.1 miles) north to accommodate Brewer's desired transmitter site. Channel 229C2 can be allotted to Stillwater in compliance with the Commission's minimum distance separation requirements and can be used at the site specified in Station KSPI-FM's outstanding construction permit (BPH-870225MI). The coordinates for Station KSPI-FM, Stillwater, are North Latitude 36-06-33 and West Longitude 97-11-43. The coordinates for

Station KOKL–FM, Okmulgee, are North Latitude 35–50–02 and West Longitude 96–07–28. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 19, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–39, adopted October 11, 1988, and released November 3, 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. 153, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Oklahoma is amended by revising the entry for Okmulgee by deleting Channel 232A and adding Channel 231C2. The entry for Stillwater is revised by deleting Channel 230C and adding Channel 229C2.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–26104 Filed 11–9–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–454; RM–6026]

Radio Broadcasting Services; Gleneden Beach, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Hal D. Fowler, allots Channel 264C2 to Gleneden Beach, Oregon, as the community's first local FM service. Channel 264C2 can be allocated to Gleneden Beach in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 44–52–53 and West Longitude 124–01–59. With this action, this proceeding is terminated.

DATES: Effective December 19, 1988. The window period for filing applications will open on December 20, 1988, and close on January 19, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–454, adopted September 30, 1988, and released November 4, 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.

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 FM Table of Allotments for Oregon is amended by adding Gleneden Beach, Channel 264C2.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–26105 Filed 11–9–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–401; RM–5876]

Radio Broadcasting Services; Dickson, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 229A to Dickson, Tennessee, as that community's second FM service, at the request of Edmission and Eubank Communications. The allotment requires a site restriction of 11.3 kilometers (7.0 miles) east of Dickson, at coordinates 36–06–03 and 87–15–58. With this action, this proceeding is terminated.

DATES: Effective December 19, 1988; the window period for filing application will open on December 20, 1988, and close on January 19, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–401, adopted October 11, 1988, and released November 3, 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.

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 is amended under Tennessee, by adding Channel 229A at Dickson.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–26100 Filed 11–9–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–594; RM–6100, RM–6424]

Radio Broadcasting Services; Huntsville and Centerville, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 276A to Centerville, Texas, as that community's first local FM service at the request of Center-Dial, Inc. In addition, this document allots Channel 278A to Huntsville, Texas, as that community's third local FM service, at the request of Huntsville Broadcasting Group. Channel 276A can be sited at Centerville from the reference coordinates at 31–15–36 and 95–58–42. Channel 278A at Huntsville requires a site restriction of 2.3 kilometers (1.4 miles) southwest of that city at coordinates 30–43–24 and 95–33–00. With this action, this proceeding is terminated.

DATES: Effective December 19, 1988; the window period for filing applications will open on December 20, 1988, and close on January 19, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This a summary of the Commission's Report and Order, MM Docket No. 87–594, adopted October 11, 1988, and released November 3, 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.

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, is amended under Texas, by adding Channel 276A at Centerville and Channel 278A at Huntsville.

Steve Kaminer,

Deputy Chief, Policy and Rules Dvision, Mass Media Bureau.

[FR Doc. 88–26106 Filed 11–9–88; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 53, No. 218
Thursday, November 10, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Ch. III

[Docket No. 88-165]

Varroa Mite Negotiated Rulemaking Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The purpose of this notice is to announce the first meeting of the Varroa Mite Negotiated Rulemaking Advisory Committee. This meeting is contingent upon the timely establishment of this Committee.

Place, dates, and time of meeting: The meeting sessions will be held at the Washington Court Hotel, 525 New Jersey Ave., NW., Washington, DC 20001–1527, November 30–December 2, 1988, from 9 a.m. to 5 p.m. each day.

FOR FURTHER INFORMATION CONTACT: For technical information, contact: Doug Ladner, Senior Staff Officer, Plant Protection Management Systems, Policy and Program Development, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 644, Hyattsville, MD 20782, (301)436–8247. for information on negotiated rulemaking, contact Emmett P. De Deyn, at (202)653–5232; Lou Manchise, at (513)684–2951; or Deborah S. Dalton, at (202)382–5495, facilitators.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to bring together members of the Animal and Plant Health Inspection Service, the bee industry, and other members of the public to discuss whether there can or should be a proposed rule to prevent the interstate spread of the Varroa mite.

The meeting will be open to the public. Public participation will be limited to written statements. Anyone who wants to file a written statement with the Committee about meeting topics may do so either at the time of the meeting or before the meeting, by sending the statement to Helene Wright, APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC 20090–6464.

This notice of meeting is given in compliance with the Federal Advisory Committee Act (Public Law 92–463).

Done in Washington, DC, this 7th day of November 1988.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–26116 Filed 11–9–88; 8:45 am]

BILLING CODE 4310-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 88-1181]

Bonds for Directors, Officers, Employees, and Agents; Form of and Amount of Bonds

Date: November 2, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is proposing to amend the provisions of 12 CFR Part 563 regarding the permissible deductible amount for bonds for directors, officers, employees, and agents of institutions the accounts of which are insured by the FSLIC ("FSLIC-insured institutions"). The proposal would delete the current schedule for calculating the permissible deductible.

DATE: Comments must be received on or before January 9, 1989.

ADDRESS: Send Comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552. Comments received will be available for public inspection at the Board's Information Services Office, 801 17th Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Cindy L. Hausch, Financial Analyst, (202) 377–7488; Kathleen V. O'Dea, Assistant Director, (202) 377–6789; Patrick G. Berbakos, Director, (202) 377–6720, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552; or Linda Lowry, Policy Analyst, (202) 331–4597; Edward J. Taubert, Deputy Director, Policy (202) 331–4588, Office of Regulatory Activities, 801 17th Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: All operating FSLIC-insured institutions are required to maintain adequate fidelity bond coverage in accordance with 12 CFR 563.19. In 1979 when the Board last amended the maximum deductible amounts, it was believed that all FSLIC-insured institutions would be able to obtain bonds with deductible amounts within the limits of the regulations. Additionally, it was believed that the negotiated deductible would be less than the maximum permissible deductible. However, that has not proven to be the case. Today, institutions seeking bond coverage are experiencing difficulty obtaining bond coverage, and those who are able to obtain coverage often find the deductible in excess of the permissible amount. Bonding companies have been particularly unwilling to issue to *de novo* institutions bonds with deductibles within the limits required by the regulations. Thus, *de novo* institutions have obtained coverage with deductibles of $50,000, at minimum—far exceeding the permissible deductible in the existing regulation.

In order to adjust the permissible deductible to increases corresponding with the insurance market rates and to relate permissible deductibles to the additional protection offered FSLIC by an insured institution's tangible capital, the Board hereby proposes to amend 12 CFR 563.19(b). Section 563.19(b) as proposed would delete the current schedule for calculating the permissible deductible. It would also establish a new method for calculating the permissible deductible, allowing the maximum permissible deductible to be the higher of either five percent of tangible capital as defined in § 563.9–8(b)(12) or $50,000. The Board notes that with this calculation there is a possibility of anomalous situations wherein the deductible as calculated would be higher than the $3 million limit of required bond coverage under § 563.19(b). Additionally, the Board proposes to remove the sentence in paragraph (b) which permits institutions to increase the permissible deductible to

a maximum of 3 times the above-specified permissible amount whenever losses under the bond exceed 50 percent of the premium. Due to the increased permissible deductibles, this allowance would be unnecessary.

The Board is currently considering whether more substantive revisions to the fidelity bond regulations for all insured institutions are appropriate, and solicits comments as to the advisability and scope of such rulemaking.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following initial regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the **SUPPLEMENTARY INFORMATION** regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to all insured institutions.

3. *Impact of the proposed rule on small entities.* The proposed rule would in fact ease the burden on small institutions by allowing a more reasonable permissible deductible.

4. *Overlapping or conflicting federal rules.* There are no known rules that duplicate, overlap, or conflict with this proposal.

5. *Alternative to the proposed rule.* There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed in the **SUPPLEMENTARY INFORMATION** set forth above.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Currency, Investments, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Federal Home Loan Bank proposes to amend Part 563, Subchapter D, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows.

Authority: Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

2. Amend § 563.19 by revising paragraph (b) to read as follows:

§ 563.19 Bonds for directors, officers, employees, and agents; form of and amount of bonds.

* * * * *

(b) No insured institution shall be required to maintain such bond coverage in an amount greater than $3,000,000. Such bond coverage may provide for a deductible amount from any loss which otherwise would be recoverable from the bonding company. A deductible amount may be applied separately to one or more insuring agreements. The bond shall not provide for more than one deductible amount from all losses caused by the same person or caused by the same persons acting in collusion or combination in cases in which such losses result from dishonesty of employees (as defined in the bond). The maximum permissible deductible is the higher of five percent of tangible capital as defiend in § 563.9–8(b)(12) or $50,000.

* * * * *

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88–25999 Filed 11–9–88; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10 and 141

Importation of Ethyl Alcohol for Nonbeverage Purposes

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (BATF) has requested that Customs change certain procedures in its regulations concerning the withdrawal of ethyl alcohol from Customs custody and its transfer to the BATF bonded premises of a distilled spirits plant for nonbeverage purposes. These changes are intended to conform that portion of the Customs Regulations concerning such transfer procedures to existing BATF transfer procedures. The changes will generally delete obsolete procedures regarding the transfer of nonbeverage ethyl alcohol and references to obsolete forms from the Customs Regulations and will incorporate, in the Customs Regulations, references to the BATF Regulations which contain the details regarding the BATF transfer procedures. The changes will also conform the declaration filed in connection with the entry of ethyl alcohol for other than beverage purposes to the relative statutory requirements.

DATE: Comments must be received or or before January 9, 1989.

ADDRESS: Comments (preferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2324, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT:

Operational Matters

Louis Alfano, Office of Trade Operation, 202–566–8651.

John Holl, Office of Inspection and Control, 202–566–8151.

Audit Matters

Matthew Krimski, Regulatory Audit Division, 202–566–2812.

Legal Matters

Ken Paley, Entry Rulings Branch, 202–566–5856.

SUPPLEMENTARY INFORMATION:

Background

The procedures for the withdrawal of certain imported ethyl alcohol from Customs custody and their transfer to the BATF bonded premises of a distilled spirits plant, for nonbeverage purposes, without the payment of internal revenue tax pursuant to section 5232, I.R. Code of 1954 (26 U.S.C. 5232), are contained in § 10.99, Customs Regulations (19 CFR 10.99). These regulations contain detailed procedural instructions for the tax-free transfer of imported ethyl alcohol of 185 degrees or more of proof, which is classifiable for duty purposes under item 427.88, Tariff Schedules of the U.S. (19 U.S.C. 1202). The procedures contained therein are no longer current and the forms described are, in many cases, obsolete and unavailable. Difficulty has arisen because Customs officers, relying on the above regulatory authority, have been requiring these obsolete and unavailable forms. In addition thereto, the Internal Revenue Code has been revised since the distilled spirits transfer procedures were originally promulgated. The BATF authority for such transfer procedures is now contained in Section 5232, I.R. Code of 1986 (26 U.S.C. 5232). Appropriate changes to the BATF Regulations were published as T.D. ATF–198 in the

Federal Register of March 1, 1985 (50 FR 8456).

In considering this matter, Customs notes that the major substantive responsibility for imported nonbeverage alcohol as it enters the commerce of the U.S. lies with the BATF. Customs also notes the difficulty of keeping the procedures, which are essentially for BATF purposes, current in the Customs Regulations. We, therefore, have concluded that it would be more appropriate for these procedural matters to appear in detail in the BATF Regulations (27 CFR Parts 250, 251) as suggested by that Bureau, and that the Customs Regulations merely reference the BATF forms and procedures.

Proposed Action

It is proposed that the obsolete procedures regarding the transfer of ethyl alcohol for nonbeverage purposes from Customs custody to BATF custody be deleted from §§ 10.99 and 141.102, Customs Regulations (19 CFR 10.99 and 141.102), and references to the appropriate parts and subparts of the BATF Regulations, which now contain those procedures, be inserted in the Customs Regulations in lieu thereof.

It is also proposed to amend § 10.99(a), Customs Regulations (19 CFR 10.99(a)), to clarify that the importer's declaration to Customs supporting the tax-free transfer of imported ethyl alcohol must note whether the alcohol is to be used for fuel purposes, as well as stating that the alcohol is to be used for nonbeverage purposes. This change is being proposed pursuant to the Tax Reform Act of 1986 (Section 423, Pub. L. 99–514).

The proposed amendments to § 141.102(b), Customs Regulations (19 CFR 141.102 (b)), would clarify the fact that the transfer of the nonbeverage ethyl alcohol to a distilled spirits plant from Customs custody is tax free but not duty free.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulation (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, Room 2324, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criterial for a "major rule" as specified in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, attention: Desk Officer for U.S. Customs Service, with copies to the U.S. Customs Service, Management Analysis and Systems Division, Washington, DC 20229.

The collection of information in this regulation is in § 10.99, title 19, Code of Federal Regulations. This information is required by the U.S. Customs Service to ascertain whether ethyl alcohol imported for nonbeverage purposes may be transferred from Customs custody to the premises of a distilled spirits plant bonded by the Bureau of Alcohol, Tobacco and Firearms (BATF) of the Department of the Treasury. This information will be used to determine whether such transfer may be accomplished without the payment of internal revenue tax pursuant to Section 5232, I.R. Code of 1986 (26 U.S.C. 5232). These changes will conform the Customs Regulations to changes made in the BATF Regulations which were published as T.D. ATF–198 in the **Federal Register** of March 1, 1985 (50 FR 8456). The likely respondents are business or other for-profit institutions and Federal agencies or employees.

Estimated total annual reporting and/or recordkeeping burden: 25 hours.

Estimated average annual burden per respondent and/or recordkeeper: 5 minutes.

Estimated number of respondents and/or recordkeepers: 300.

Estimated annual frequency of responses: 1.

Drafting Information

The principal author of this document was Arnold L. Sasrasky, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Art, Customs duties and inspection, Exports, Fisheries, Imports, Oil imports, Packaging and containers, Petroleum, Tobacco and Wildlife.

19 CFR Part 141

Customs duties and inspection, Explosives, Imports and lawyers.

Proposed Amendments

It is proposed to amend Part 10, Customs Regulations (19 CFR Part 10), as set forth below:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for Part 10, as hereto pertinent, would continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), and 1624.

2. It is proposed to revise § 10.99 to read as follows:

§ 10.99 Importation of ethyl alcohol for nonbeverage purposes.[90]

(a) If claim is made by an importer other than the United States or a governmental agency thereof for the classification of ethyl alcohol of 185 degrees or more of proof under item 427.88, Tariff Schedules of the United States,[91] the importer or his agent shall

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[90] *"Imported distilled spirits.* Imported distilled spirits of 185 degrees or more of proof (or spirits of any proof imported for any purpose incident to the requirements of the national defense) may, under such regulations as the Secretary or his delegate shall prescribe, be withdrawn from customs custody, and transferred to the bonded premises of a distilled spirits plant, for nonbeverage use, without payment of the internal revenue tax imposed on imported distilled spirits by section 5001. Such spirits may be redistilled or denatured and may, without redistillation or denaturation, be withdrawn for any purpose authorized by this chapter, in the same manner as domestic distilled spirits." (Sec. 5232 Internal Revenue Code of 1986; 26 U.S.C. 5232)

"Withdrawal of distilled spirits from Customs custody free of tax for use of the United States. Distilled spirits may be withdrawn free of tax from customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes, under such regulations as may be prescribed by the Secretary or his delegate." (Sec. 5313, Internal Revenue Code of 1986; 26 U.S.C. 5313)

[91] "Alcohols, monohydric, unsubstituted. * * * Ethyl for nonbeverage

Continued

file in connection with the entry a declaration that the alcohol is to be used for nonbeverage purposes only and whether the alcohol is to be used for fuel purposes. Customs shall release the alcohol for transfer, under internal revenue bond, to a distilled spirits plant upon deposit of estimated duty, if any, and without the payment of the internal revenue tax upon receipt of a transfer record for bulk spirits. In addition, a package gauge record must be submitted to Customs if the alcohol is in packages, as specified in subpart I of Part 251, Bureau of Alcohol, Tobacco and Firearms (BATF) Regulations (27 CFR Part 251, Subpart I). The transfer shall be accomplished in accordance with subpart L of Part 251, Bureau of Alcohol, Tobacco and Firearms Regulations (27 CFR Part 251, Subpart L).

(b) An appropriate BATF permit shall be filed with Customs in connection with the withdrawal of ethyl alcohol from Customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes. Such permit shall be filed before release under the entry without the deposit of estimated duties, if any, and internal revenue tax, or before release in accordance with the provisions of § 141.102(d) of this chapter. (See subpart M of Part 251, Bureau of Alcohol, Tobacco and Firearms Regulations (27 CFR Part 251, Subpart M)).

(c) The procedures for the withdrawal free of tax on the entry of ethyl alcohol for nonbeverage purposes from the Virgin Islands are found in subpart O of Part 250, Bureau of Alcohol, Tobacco and Firearms Regulations (27 CFR Part 250, Subpart 0).

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for Part 141 and the specific authority of Subpart G thereof would continue to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624. Subpart G—19 U.S.C. 1505.

2. It is proposed to revise § 141.102(b) to read as follows:

§ 141.102 When deposit of estimated duties, estimated taxes, or both not required.

* * * * *

(b) *Bulk distilled spirits transferred to the bonded premises of a distilled spirits plant.* An importer may transfer distilled spirits in bulk to the bonded premises of a distilled spirits plant, without the payment of tax, under the provisions of section 5232(a), Internal Revenue Code of 1986 (26 U.S.C. 5232(a)), and the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 251).

* * * * *

William von Raab,

Commissioner of Customs.

Approved: July 26, 1988.

John P. Simpson,

Acting Assistant Secretary for Enforcement.

[FR Doc. 88-25901 Filed 11-9-88; 8:45 am]

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purposes" (Item 427.88, Tariff Schedules of the United States.)

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

Safety Standards for Explosives at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule updates and clarifies the Mine Safety and Health Administration's (MSHA) safety standards for explosives at metal and nonmetal mines. These revisions upgrade existing provisions consistent with technological advances in mining, eliminate duplicative and unnecessary standards, reduce recordkeeping requirements, and provide alternative methods of compliance.

DATES: Written comments and requests for public hearings on the proposed rule must be received on or before January 9, 1989.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances; MSHA; Room 631, Ballston Towers No. 3; 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, or Yvonne Johnson, Project Officer, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

This proposed rule is part of MSHA's comprehensive review of its metal and nonmetal safety and health standards. MSHA announced the availability of a draft proposal on August 20, 1984 (49 FR 33087), and invited public comment

During the review process, MSHA received suggestions and recommendations from many commenters. Many substantive changes consistent with commenters' suggestions, the specific goals of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act have been made.

The proposed rule arranges the standards in Subpart E of Parts 56 and 57 into related categories. They are: storage; transportation; use; electric blasting; nonelectric blasting; extraneous electricity; equipment/tools; maintenance; and general restrictions. Each standard is provided with a title for easier accessibility. Definitions pertaining to Subpart E precede the standards in § 56/57.6000. Of twenty-five existing definitions in § 56/57.2 relating to explosives, fourteen are revoked, five are added and one is substantively modified. In the following discussion, the designation "56/57" indicates that the standards applies to both Parts 56 and 57.

To aid in comparing the existing standards with the revised standards, this document includes a derivation table and a distribution table which cross-reference the existing standard numbers with the proposed standard numbers. MSHA specifically solicits further comment on each proposed standard and definition.

II. Discussion and Summary of the Proposed Rule

A. General Discussion

Hazards associated with explosive materials have historically been a leading cause of many serious injuries and fatalities in metal and nonmetal mines. Precautions to safeguard against these hazards are an essential part of any effective mine safety program.

Generally, Subpart E standards focus upon hazards which may be present when persons use or work near explosive material at metal and nonmetal mines. The safety measures that are necessary depend upon the nature of the hazards involved. In some instances, the standards prohibit certain actions so as to avoid a situation which could lead to a premature detonation. Other standards set out correct procedures to be followed when working with explosive material. New developments in the field have been reviewed and are addressed where necessary. These include: nonelectric initiation systems such as shock tube systems, gaseous initiation systems, and miniaturized detonating cord systems; the use of sequential timers and other in-hole blast delay techniques; and bulk mixing and loading technology.

B. Transfers

Two standards are transferred to Subpart F, Drilling and Rotary Jet

Piercing. Existing standard 56/57.6107 prohibits the drilling of holes where there is danger of intersecting a charged or misfired hole. Existing standard 56/57.6135 prohibits collaring holes in bootlegs. These standards will be renumbered 56/57.7055 and 56/57.7056 respectively. A clarifying change has been made to the wording of standard 56/57.6107. The phrase "charged" hole has been replaced with "a hole containing explosives, blasting agents or detonators" to make the wording consistent with language used in proposed Subpart E.

C. Deletions

Existing standard 56.6046, which requires that vehicles containing explosives or detonators be maintained in good condition and be operated at a safe speed and in accordance with all safe operating practices, is proposed for deletion since other standards address the maintenance or safe operation of vehicles. Existing standard 56/57.6108, which requires that fuse and igniters be stored in a cool, dry place away from oils or grease is proposed for deletion since both safety fuse and igniter cord are defined as Class "C" explosives and are covered under MSHA's storage requirements for explosives. Existing standard 56.6132, which requires delay connectors to be treated and handled with the same safety precautions as detonators, is proposed for deletion because delay connectors are defined as detonators.

Existing standard 56/57.6139 requires that blasting areas shall not be re-entered after firing until concentrations of smoke, dust, and fumes have been reduced to limits determined by the air quality standards. This standard is proposed for deletion since the hazards are addressed by the post-blast examination requirements of proposed standard 56/57.6306 and by the allowable concentrations of blast-generated gases in the existing Air Quality standards. However, MSHA solicits additional comments on this issue.

Existing standard 56/57.6140, concerning extraneous electricity is proposed for deletion as redundant with other standards dealing with extraneous electricity.

The existing introductory statement, designated 56/57.6000, states that the term "explosives" includes "blasting agents." Commenters suggested deletion of the introductory statement. MSHA agrees and proposes to include specific language in the standards which clarifies the applicability of each standard with respect to blasting agents and explosives.

Commenters objected to the requirement of preproposal draft standard 56.6330 that holes be stemmed as unrelated to safety and unnecessary. Explosive manufacturers, many users, and MSHA recognize that the practice of stemming increases the efficiency of explosive materials and contributes to safety by minimizing flyrock and reducing the need for secondary blasting. However, the safety aspects of flyrock and secondary blasting are addressed in proposed standards 56/57.6306 and 56/57.6312. For example, proposed standard 56/57.6306(e) requires all persons to be out of the blast area or in a protected location when the blast is fired. The practice of stemming can, therefore, be left to the discretion of the mine operator, and the stemming requirement is deleted from the proposed rule.

D. Incorporation by Reference

Existing standard 56/57.6020 incorporates by reference "the current American Table of Distances for Storage of Explosives" published by the Institute of Makers of Explosives (IME). The draft proposal incorporated directly into the standard the pertinent parts of the Table and the National Fire Protection Association's table, "Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents" (NFPA 492–1976). Commenters suggested deleting any reference to either table because the tables are set out in existing Bureau of Alcohol, Tobacco, and Firearm (BATF) standards. While a long-standing interagency agreement provides for MSHA enforcement of BATF standards, MSHA believes that specific hazards unique to mining exist on mine property and dictate the use of tables which specifically address them. For example, the IME table provides excellent safety guidance but is primarily directed at protecting areas outside of mine property. Accordingly, MSHA has replaced the incorporation by reference with tables of distances specifically directed toward mining. Thus, for Part 57 the term of "inhabited buildings" is replaced with "mine buildings, underground mine openings, fans, dams and electric substations" to address the risk to miners, including underground miners, from the initiation of a surface storage facility. For Part 56, the definition is replaced with "mine buildings, dams, and electric substations" to afford protection at surface operations.

E. Performance Language

In developing the proposed rule, performance-oriented criteria was used rather than specification language, where appropriate. With performance-oriented language, a proposed standard sets out aspects of the safe use of explosive material as an objective to be met. As long as the safety objective is achieved, the agency allows the operator to use the compliance method that is most appropriate. However, in standards where a necessary and accepted margin of protection is provided and where safety is enhanced by a precise statement of a specific requirement, specifications are retained.

The distances used in the various proposed standards are taken from recommendations of consensus standards, expert organizations, and manufacturers' publications. To illustrate, areas around magazines must be kept clear of combustible materials for specified distances because fires initiated by nearby lightning strikes have resulted in the explosion of magazines. The footage requirements of the applicable standard conform with IME Publication No. 3, "Suggested Regulations" (Section 5.6 r and s), 1985 edition, BATF regulations 27 CFR 55.215, 1987 compilation, and the NFPA Code 495, (Section 6–8 Miscellaneous Safety Precautions), 1985 edition.

In cases where the potential source of ignition in a mine environment is electricity, the current could pass through such alternative conductive paths as: (1) The earth, (2) damp timbers, (3) metal pipelines, (4) machinery housings, (5) track rails, (6) metal fences, or (7) a conductive rock strata that lies on top of or between two nonconductive strata. The use of electric detonators, spark-sensitive explosive material and new forms of blasting agents and explosives reinforce the need for a routinely implemented separation distance.

The agency retains specific separation requirements from sources of electricity and fire in standards that address electrical distribution circuits; electrical substations; welding and other sparks; and open flames and smoking. The distances used are taken from the IME Safety Library publications, the Atlas Powder Company "Handbook of Electric Blasting" (1976), the Dupont "Blaster's Handbook" (1978), Bureau of Mine's Circular 54 and the National Fire Protection Association (NFPA) Code 495 (1985).

F. Definitions

"Active workings." The proposed rule deletes the definition of "active workings." Where relevant, the proposed standards include specific

language relating to the places where persons work or travel.

"American Table of Distances." The proposed rule deletes the definition of "The American Table of Distances" because the table is not included in the proposed standards.

"Attended." This newly defined term allows for flexibility in securing areas containing explosive materials, including areas to be blasted. It is performance-oriented and allows for electronic or video monitoring devices as well as the actual presence of an individual.

"Blasting agent." The proposed definition updates the existing reference pertaining to any substance classified as a blasting agent.

"Blast area." The proposed rule changes the phrase "blasting area" to "blast area" for consistency. The characteristics to be considered in determining the blast area have been listed in the definition in order to more clearly state its intent. The presence of "gases" is added as a determinant of the blast area since toxic gases associated with blasting can cause serious injury and death. The MSHA air quality standards establish the permissible exposure limits for toxic gases. The term "shock wave" has been added to clarify the term "concussion."

"Blasting cap." The proposed rule deletes the existing definition of "blasting cap". The term is commonly understood to be a detonator which is initiated by a safety fuse.

"Blasting circuit." The existing MSHA definition of "Blasting circuit" limiting the term to electric circuits is inappropriate. As a result of new technology, many non-electric blasting circuits are now in use. The proposed rule contains no definition for blasting circuit because the term can apply to either electric or nonelectric circuits. Where used, its application is made clear by the language of the standard.

"Blast site." This newly defined term describes the area where specific safety precautions must be taken during loading of blastholes. The term is taken from the Institute of Makers of Explosives (IME) Publication No. 12, (January , 1985) "Glossary of Commercial Explosives Industry Terms". The "Blast site" is considerably smaller in size than the "blast area" and is intended to provide protection for miners engaged in blasthole loading activities and miners engaged in other non-blasting activities in the vicinity.

Activity at the blast site unrelated to loading increases the probability of injury associated with explosives-handling. Only activities related to loading would be permitted within the blast site. The distance set out in the definition is a reasonable distance to separate the loading operations from other operations which may interfere with preparations for the blast or be affected by a premature detonation of a limited size. Mining activities such as drilling, overburden removal, mucking and hauling would be permitted to continue uninterrupted at the mine at a distance which would not interfere with loading activities. This area of inactivity will provide assurance that mine vehicles will not damage the explosive materials being handled or disturb the blastholes being loaded. It will also minimize the possibility of injury to miners from a premature detonation and reduce the likelihood that miners' activities such as drilling or mucking could cause a premature detonation. This definition includes not only "loaded holes" but also "holes to be loaded." This inclusion recognizes that the entire loading process often progresses at a rapid rate. It assures that miners engaged in non-blasting activities will not be within the 50 foot protected area unknowingly.

"Blasting switch." MSHA adopts the suggestion of several commenters that we retain the definition of "blasting switch." The term defines the switch used in powerline shooting and is used in several standards.

"Booster." The proposed rule deletes the existing definition because the term "booster" is not used in the proposed standards.

"Capped Fuse." The proposed rule deletes the existing definition because the term "capped fuse" is not used in the proposed standards.

"Capped primer." The proposed rule deletes the existing definition because the term "capped primer" is not used in the proposed standards.

"Delay connector." The proposed rule deletes the existing definition because the proposed definition for the term "detonator" addresses delay connector.

"Detonating cord." The proposed rule clarifies the existing definition. The phrase "used to initiate other explosives" is added to assure that detonating cord is not confused with other initiating devices.

"Detonator." The existing definition is revised for clarity by including examples of commercially available detonating devices. In response to comments received, MSHA has clarified the definition by adding that "detonator" does not include detonating cord. The proposed definition states that detonators may be either "Class A" or "Class C" detonators as classified by the Department of Transportation (DOT). DOT makes this classification on the basis of its test results. When more than 90 percent of the devices tested in a package explode practically simultaneously, they are classified as Class A detonators. Class A detonators, as packaged, are more likely to mass detonate than Class C detonators. Extra caution must be exercised when storing, transporting or using Class A detonators.

"Electric blasting cap." The proposed rule deletes this definition because the term "electric blasting cap" is readily understood by persons in the mining community who use and handle explosives.

"Explosive." The proposed definition clarifies the existing definition by stating that the DOT document referenced is a 1986 publication. It is proposed to continue to use the DOT classification of materials to determine those substances that are to be treated as explosives and blasting agents. The classification is used industry-wide and provides an accurate grouping of materials having similar characteristics as determined through DOT tests. The labeling of explosives according to this classification is in widespread use and provides an effective identification system. Classification labels are placed on products by the manufacturer and are present when these products are brought onto mine property. Mine operators are familiar with these labels and can readily identify the nature of the explosive material.

The Agency is aware that DOT is proposing to revise its existing classification system for packaging of hazardous substances (52 FR 16482, May 5, 1987 and 52 FR 42772, November 6, 1987). In these documents, DOT states that work has begun in another rulemaking action to address the testing, classing and packaging of explosives and that a notice of proposed rulemaking will be issued. MSHA is following these rulemakings closely. Upon publication of a final rule amending the existing explosives classification system, MSHA will determine the advisability of incorporating the new classification scheme into its rule.

"Explosive material." This newly defined term includes "explosives," "blasting agents" and "detonators" as explosive material and is used many times throughout the proposed rule. It eliminates repetition of the terms "explosives", "blasting agents", and "detonators" and allows for the deletion of the introductory application statement appearing as existing standard 56/57.6000.

"Flashpoint." The proposed rule adopts the definition used in Subpart C, Fire Prevention and Control, Section 56/57.4000. This definition conforms with the definition of "flash point" in the National Fire Protection Association's "Flammable and Combustible Liquid Code," NFPA 30–1981. Flash point is defined as the minimum temperature at which a liquid releases sufficient vapor to form a flammable vapor-air mixture near the surface of the liquid.

"Igniter cord." The proposed definition is retained with editorial changes. The definition is necessary to avoid confusion with other initiating devices.

"Laminated partition." In response to comments received, MSHA has added this definition to clarify what may be used as an equivalent alternative to four inches of hardwood separating detonators from other explosive material. MSHA clarified the term in the draft proposal by stating that the materials must be bonded and consist of minimum nominal dimensions. The definition is derived from the IME Pamphlet Number 22, January 1, 1985. The phrase "laminated partition" appears in standards 57/57.6133 and 56/57.6201.

"Loading." The definition is added to standardize and clarify this important aspect of blasting activities. The use of "charge" as synonymous with "load" has resulted in some confusion within the mining community. MSHA proposes the exclusive use of "load" as descriptive of the process of placing explosive material in a hole or against material to be blasted.

"Magazine." The proposed rule would delete the term "magazine" since it is commonly understood in the mining community. The construction requirements for a surface magazine appear in proposed standard 56/57.6132.

"Mass Detonation." The draft proposal definition of "mass detonation" is deleted because the term is not used in the proposed rule.

"Misfire." The complete or partial failure of explosive material to detonate as planned. The proposed definition substitutes the terms "explosive material" for "blasting charge" and "detonate" for "explode" for consistency in terminology. Misfires have occurred for a variety of reasons, including use of inappropriate, damaged or deteriorated explosive material.

"Multi-purpose dry-chemical fire extinguisher". The proposed rule adopts the definition used in Subpart C, Fire Prevention and Control, § 56/57.4000, which defines multi-purpose dry-chemical fire extinguishers as those meeting at least the nationally recognized criteria for extinguishers with a 2–A:10–B:C rating. These extinguishers are appropriate for use on fires involving combustible solids, flammable and combustible liquids, and electric equipment. Approval organizations such as the Underwriters Laboratories, Inc. and the Factory Mutual Research Corporation test and list fire extinguishers meeting this rating. Because fire equipment manufacturers designate the weight of dry-chemical agent in an extinguisher by "nominal" weight rather than by "minimum" weight, the definition uses the term "nominal" and clarifies that the nominal weight must be at least 4.5 pounds.

"Non-electric delay blasting cap". The proposed rule deletes the existing definition because the term "non-electric delay blasting cap" is not used in the proposal.

"Powder chest". The proposed rule deletes the existing definition for the term "powder chest" since it is commonly understood in the mining community, and the construction requirements for a powder chest are contained in standard 56/57.6132.

"Safety switch". The proposed rule makes editorial revisions to the existing definition of "safety switch" for clarity and consistency.

"Water gel" or "Slurry". The proposed rule deletes the existing definition of water gel because the term is not used in the proposal. The proposed rule editorially revises the existing definition of slurry.

"Working place". The proposed rule deletes the existing definition since the term is not used in any proposed standard.

G. Section-by-Section Analysis

The following analysis examines the proposed rule and its effect on existing standards.

Storage—Surface and Underground

Section 56/57.6100 Separation of explosive material.

This proposed standard combines and clarifies existing standards 56/57.6002 and 56/57.6008 and expands the coverage of 56/57.6008 to include all forms of blasting agents rather than only ammonium nitrate-fuel oil (ANFO). Existing standard 56/57.6002 addresses the need to store detonators away from explosives and blasting agents because of the sensitivity of detonators. Paragraph (a) of the proposed standard would require continuation of this practice. Storing detonators separately would reduce the chances of accidental detonation of other explosive material.

Existing standard 56/57.6008 deals with the contamination of explosive materials by ingredients such as fuel oil (from ANFO mixes) and other blasting agents. This contamination could cause deterioration of the explosive materials and lead to misfires. In paragraph (b) of the proposed standard, MSHA adopts the language suggested by one commenter to apply the standards to other blasting agents in addition to ANFO. This is necessary to keep pace with new forms of blasting agents introduced. One commenter suggested that the word "physically" be retained in the proposed standard. However, since any separation must be "physical", it is not necessary to use the term.

Section 56.610 Areas around storage facilities

The proposed standard clarifies the intended coverage of existing standard 56/57.6005. The standard addresses the combustion hazards which can exist near a magazine from either the natural growth of vegetation or the accumulation of other materials which would support combusion. Fires believed to be initiated by nearby lighting strikes have resulted in the explosions of several magazines. For this reason, it is imperative to keep areas around magazines clear of combustible materials. The proposed rule requires the clearance of combustible materials from areas surrounding magazines and facilities which store explosive material. The language of the standard conforms with BATF regulations (27 CFR 55.215 Housekeeping), and with IME, Publication No. 3, "Suggested Regulations" (Sec 5.6 r and s), 1985 edition. There appears to be a general consensus in the explosive community that 150° F is an excessive and potentially dangerous temperature for explosive material. In some cases, tempetures much below 150°F have been shown to be a hazard. Paragraph (a) reflects a consideration that low intensity rubbish, brush, and dry grass fires would not normally exceed this temperature at the magazine if a 25 foot clearance is maintained. Paragraph (b) requires a separation of 50 feet between storage facilities and stored combustibles, such as mine timbers and fuels. Fires from these sources noramlly burn with higher intensity, and distances greater than those needed for protection from rubbish and brush fires are required to assure than an excessive temperature is not reached. Both of these distances are the recognized industry consensus figures as published

in the National Fire Protection Association (NFPA) Code 495, Chapter 3, Section 6–8, 1985 edition, as well as in other BATF and IME publications.

In addition, combustible liquids have occasionally been stored in the vicinity of a storage facility. MSHA is considering additional language to require that ground around storage facilities slope away for drainage, as a precaution in case a tank containing combustible liquid ruptures. The Agency solicits specific comment on this issue.

The phrase relating to "unnecessary combustible materials" is deleted since no combustible material should be allowed to accumulate or be stored near magazines. Live trees 10 feet or taller are less combustible than the other substances covered by the standard. Removal of these trees is not required.

Section 56/57.6102 Storage practices

This propsoed standard addresses the storage of explosive material in magazines, and combines existing standards 56/57.6007 and 56/57.6011. Under the proposal, explosive material would be stored in a stable manner, not more than eight (8) feet high with the brand and grade readily identifiable. Explosive material shall also be stored in a manner which facilitates use of the oldest stock first. Implementation of these requirements would minimize the migration of sensitizing agents within storage containers and assure that explosive materials are not crushed or dropped, possibly resulting in unplanned detonation. The requirements also assure stability of the stacked explosive material, while providing ease of handling and ready identification. Many of the explosive materials on the market today have a predetermined shelf life. Misfires have occurred as a result of using outdated stock. The requirement for storage to facilitate the rotation of stock addresses this hazard. The existing requirement in 56/57.6007 relating to the storage of explosive material with "top sides up" is deleted. While this language is intended to further the stability of the stacked material, the Agency believes paragraph (c) of the proposed standard requiring storage in a stable manner assures stability.

The proposal requires that explosives be stored in closed nonconductive containers except that nonelectric detonating devices may be stored on nonconductuve racks. Existing standard 56/57.6011 requires explosive material containers to be closed. Several existing standards including §§ 56/57.6020, 57.6050, and 57.6056 address the nonsparking and nonconductive nature of containers. Comenters noted that this requirement would prohibit accepted safe practices such as storing delay connectors in labeled, open bins and opening containers of rolled detonating cord to cut and remove specific lengths. The nonconductive containers and nonconductive rack requirements of this standard provide protection equivalent to closed containers and allow for deletion of this requirement with respect to nonelectric detonating devices. The term "explosive material" is used for uniformity with other standards and adds clarity. Consistent with commenters' suggestions, the title has been revised.

BATF requires that a record be kept of the inventory of many storage facilities because of the possibility of theft and subsequent use. This recordkeeping requirement is not contained in the MSHA regulation because it does not pertain to the on-site safety of miners at work.

Sections 56/57.6130 Storage facilities

Existing standard 56/57.6001 states that detonators and explosives other than blasting agents shall be stored in magazines. The proposed rule also addresses storage facilities for blasting agents in recognition of the many new types of products on the market. The proposal contains the general requirements for magazines, bins, tanks, and certain other facilities such as droptrailers, which would allow for the storage of blasting agents in these facilities. MSHA's preproposal included new language requiring that facilities be "well-ventilated." Commenters recommended use of the term "ventilated", stating that "well-ventilated" was vague. MSHA adopts this suggestion, and notes that it is consistent with existing ventilation requirements of BATF. MSHA also adopts the phrase in paragraph (c) suggested by one commenter that bins or tanks be " * * * locked or attended, or otherwise made inaccessible to unauthorized entry."

In addition, MSHA solicits comment on an alternative to requiring compliance with specific Tables of Distances. This alternative would require that storage facilities be located so that, in the event of an explosion, they will not create a hazard to occupants in mine buildings and will not damage mine openings, mine ventilation fans, dams or electric substations. The MSHA Tables of Distances could be included as a nonmandatory appendix to give guidance to mine operators. This option would ensure that hazards would not occur, while giving operators the flexibility to use barriers to other means of protection as well as distance.

Sections 56.6131 and 57.6131 Location of storage facilities

Existing standard 56/57.6020 addresses construction, location and housekeeping criteria for surface magazines and incorporates by reference the IME "American Table of Distances". Proposed standard 56/57.6131 addresses the location of surface magazines. Proposed standard 56/57.6132 addresses construction and housekeeping criteria for surface magazines. Commenters suggested deletion of the incorporation because the subject is covered by BATF standards which are enforced by MSHA under an Interagency Agreement. BATF regulations include the "American Table of Distances", the "Table of Distances for Storage of Low Explosives", and the "Table of Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents". These tables principally address the safety of individuals off the mine property. They have been deleted from the proposed standard which is restructured to provide increased safety for miners at the mine site.

MSHA is proposing to include its own tables of separation distances as Appendix I of this Supart. The IME "American Table of Distances", May 1983, and the National Fire Protection Association (NFPA) "Table of Separation Distances" (NFPA 492–1976) as published in NFPA 495–1985, form the basis of the MSHA tables. It should be emphasized that the MSHA tables are specifically developed for hazards unique to the mining environment. The IME and NFPA tables remain a primary source of separation distances in other situations and should be referred to in those cases. MSHA's tables would not conflict with BATF regulations, which the Agency will continue to enforce under an interagency agreement.

MSHA recognizes that some mines do not have sufficient surface area to comply with the tables. For these mines, MSHA allows an exception based on performance criteria. The criteria are intended to provide protection from the hazards of a surface storage facility detonation. Such a detonation could endanger mine employees in nearby buildings. It could also pose a danger to other employees, especially underground miners, if a mine opening, electric substation, dam or mine ventilation fan were damaged. The standard requires a mine operator to take these hazards into consideration when selecting a storage facility location. In addition to natural or artificial barriers, features such as the

natural topography of the ground can be considered in determining the location of the facility when it is not possible to comply with the tables. An example of an acceptable location could be within natural earth formations outside the blast area. Another could be a storage facility placed in an excavation into the toe of a highwall in an abandoned portion of the mine. MSHA is specifically soliciting comments on the appropriateness of its tables, the specific distances referenced in the tables and examples were deviations from the tables might be necessary.

Paragrpah (b) addresses inadvertent damage to a magazine and detonation of its explosive material contents caused by flyrock from a blast or by electrical sources generated from severed powerlines. The requirement that storage facilities be located outside of the blast area is a new proposal to address the accidents, fatalities and injuries that have occured in recent years from flyrock.

The existing requirement for location of magazines "away from" powerlines is clarified in this proposal as "a sufficient distance from powerlines so that the powerlines, if damaged, would not contact the storage facility." This proposal provides assurance that energized powerlines, when severed by an accident or a storm, will not cause a fire at the storage facility or introduce an electrical current which could cause detonation of its contents.

All blasting agents can be affected by heat generated from electric sources and therefore are included in the coverage of this standard. The reference to fuel storage areas in the existing standard has been deleted and is addressed in proposed standard 56/57.6101.

The Agency believes that there will be a little or no additional cost associated with the proposed requirement. MSHA requests data to determine whether any facilities will be affected by the changes in the proposed rule.

Section 56/57.6132 Magazine requirements

Existing standard 56/57.6020 addresses construction, location and houskeeping critieria for surface magazines. Proposed standard 56/57.6131 addresses the location of surface magazines. Proposed standard 56/57.6132 addresses construction and housekeeping criteria for surface magazines.

Paragraphs (a) and (b) of the proposed standard modify paragraph (c) of the existing standard. The structural integrity requirements of paragraph (a) are proposed as suggested by commenters. the magazine must provide protection of its contents from the elements and from potential impact which could alter the sensitivity of the explosive material or cause a detonation. A structurally sound magazine also enhances safety by contributing to the security of the stored explosive materials.

Paragraph (b) of the proposed rule contains requirements which provide protection from the sparks and heat of nearby fires which could cause a detonation.

Paragraph (c) addresses the hazard of magazine detonation by the impact of a bullet on the explosive materials stored within. The large quantities of materials stored magnify the destructive forces which are generated if a detonation occurs. Three of the last ten magazine explosions were caused by bullets penetrating the magazine. Various methods for achieving bullet resistance are detailed in BATF regulations and IME Safety Library Publication No. 3. These documents are commonly used to evaluate what is an acceptable level of bullet resistance. They do not include the word "reasonably". For that reason the proposed standard deletes the word "reasonably" which appears in the existing standard.

Paragraph (d) addresses the bonding and grounding of magazines. The existing standard requires electrical bonding and grounding if constructed of metal. Several commenters suggested that these requirements be deleted. MSHA agrees with comments with respect to grounding of metal magazines. A metal magazine resting on the earth will likely dissipate static electricity without a grounding rod. Secondly, metal structures are an effective shield from lightning and offer a satisfactory path to earth when the metal is resting, uninsulated, on the ground. A Bureau of Mine's research contract report, "Evaluation of Surface Storage Facilities for Explosives, Blasting Agents and Other Explosive Material", June 1, 1983 concluded that metal magazines do not have to be grounded and recommended that metal portions of nonmetal magazines be bonded together and grounded to assure that all metal portions are at the same electrical potential. The proposed rule deletes the requirement for grounding of metal magazines but requires that metal portions of nonmetal magazines be bonded and grounded to prevent internal build-up of electrical energy which could detonate the explosive material stored. The proposal also clarifies that welds, rivets and securely tightened bolts are acceptable methods for magazine bonding.

Paragraph (e) requires that the magazines have nonsparking materials on the inside. Sparking material is prohibited inside a magazine because of the potential for a spark-generated detonation of the magazine contents. This provision editorially revises the existing standard.

Paragraph (f) addresses the need for ventilation in a magazine. The existing standard requires "* * * adequate and effectively screened ventilation openings near the floor and ceiling". The performance-oriented proposed standard provides that the magazine must be ventilated to control dampness and excessive heating. Dampness increases the likelihood of deterioration and misfires. Excessive heat or fumes increase the likelihood fo detonation or deterioration of explosive material.

Paragraph (g) editorially modifies the existing standard which requires danger signs to be located so that a bullet passing through the face of the sign will not strike the magazine.

Paragraph (h) of the existing standard requires that magazines be "kept clean and dry in the interior, and in good repair". The reference to "good repair" has been deleted from the proposed rule because it is covered by the "structurally sound" requirements of paragraph (a). The proposed rule retains the "clean and dry" requirements in paragraph (h) however, in recognition of two concerns. First, if accumulations of rain, snow, and mud are not removed, they may contaminate the explosive materials and alter their chemical nature. Improper detonation can result. In addition, blasting agents are often stored in these magazines with more sensitive explosives. Minor spills of blasting agents which occur during handling in the magazine must be cleaned up to prevent contamination of the explosives.

Paragraph (i) is a new provision which addresses fire and explosion hazards that can exist from improper lighting equipment installed in a magazine. This proposal is consistent with the BATF requirement which allows battery-activated safety lights or battery-activated safety lanterns in explosives storage magazines. The IME Publication #3, § 5.4.5, provides guidance for safe lighting of a magazine.

Paragraph (j) editorially revises the existing requirement dealing with the fire and explosion hazards that can exist with improper heating devices in magazines. The standard would allow heating of magazines in a manner which assures that hazards will not be introduced into the magazine. The IME

Publication #3, § 5.4.5, provides guidance for safe heating of a magazine.

Paragraph (k) editorially revises existing paragraph (h) which requires that magazines be kept locked securely when left unattended. This provision is designed to protect against vandalism.

Paragraph (l) permits storage of essential nonsparking equipment needed to clean, maintain and operate the facility. The existing standard does not allow any extraneous material in the magazine. Allowing essential equipment to be stored in the magazine would not affect the safe storage of explosive material, but would assure that the magazine is effectively maintained.

Section 56/57.6133 Powder chests

This proposed standard modifies existing standard 56/57.6159 concerning stationary of mobile powder chests for the short-term storage of limited quantities of explosive material. The exisiting standard applies to both surface and underground operations. The proposed standard applies only to surface areas since proposed standard 57.6161 deals with auxiliary storage facilities underground.

Paragraphs (a), (b), (c), (d), and (f) of the existing standard have been edited for clarity and appear in the proposed standard without substantive change as paragraph (a). Paragraph (e) of the existing standard is revised and set out as proposed paragraph (b). The proposed standard permits alternative methods for the storage of detonators depending on their classification by the DOT. The agency recognizes that when dealing with small quantities of Class C detonators, protection can be achieved with 4-inches of hardwood, laminated partition or equivalent.

Some commenters requested clarification of the word "equivalent" in the phrase "4-inches of hardwood or the equivalent". MSHA added the defined term "laminated partition" as an example of equivalent protection but has also retained "equivalent" to allow for advances in mining technology and flexibility in compliance.

Storage—Underground Only

Section 57.6160 Main facilities

MSHA recognizes that underground storage of explosive material is a common practice. This new provision addresses hazards associated with the improper storage and location of main underground facilities. The inherently hazardous nature of stored explosives necessitates that certain safety precautions be taken, particularly in a mine environment which may contain high electric current, conductive ore bodies, heavy equipment and nearby activity.

The proposed standard, in response to public comment, omits certain draft proposal language. The draft proposal required that facilities be located so that fumes could not course to working places. Fumes from explosive materials stored in a wellmaintained facility present no problem when the facility and the mine are ventilated. However, the proposal provides that the main facility shall be located so that a fire or explosion in the storage facilities will not prevent escape of miners from the mine. The requirements of this standard are taken from Bureau of Mines Circular 54, and IME Safety Library publications. The distances in the Bureau of Mines circular have been in effect during the times when the modes of transportation in underground mines have evolved. Various modes of transportation have differing potential for impact on storage facilities. These distances have proven effective for rail haulage and more recently diesel-powered rubber-tired haulage.

Section 57.6161 Auxiliary facilities

This proposed standard combines existing standards 57.6027, 57.6029, and 57.6030 which address facilities used to store explosive material near work places. This standard is consistent with the general practice in the mining community of providing wooden, box-type facilities near the work place. Paragraph (a) would allow alternatives to "box-type" facilities addressed in existing standards 57.6027 and 57.6029 by permitting the use of other facilities which provide equivalent impact resistance and confinement. Original shipping containers often provide some degree of protection and confinement during transportation. However, construction of paper and plastic products does not adequately protect the contents from deterioration caused by impact and moisture in the mining environment during auxiliary storage.

Auxiliary storage facilities are used in areas other than "working faces", the phrase appearing in existing standard 57.6027. For example, explosive material is occasionally stored near crushers and chutes. MSHA has substituted the phrase "work places" since precautions are necessary wherever explosive materials are stored.

Paragraphs (b)(1), (b)(2), (b)(5), (b)(6) and (b)(9) are taken from the existing standards and provide that auxiliary facilities be posted and protected against environmental conditions such as sparks, moisture, and detonation from other storage facilities. The 25 foot separation distance in paragraph (b)(9) is taken from Bureau of Mines Circular 54 and provides assurance that accidentally initiated detonators will not influence the other stored explosive material.

Paragraphs (b)(3) and (b)(4) are new provisions designed to protect the contents of auxiliary storage facilities from exposure to the mine environment and particularly to prevent moisture from contaminating and desensitizing the contents. Paragraph (b)(7) is a new provision addressing hazards which occur when equipment or electrical charges contact the explosive materials. The 15 foot separation from haulageways and electrical equipment is less than that for main storage facilities but assures clearance and separation near auxiliary facilities. Since generally the size of equipment and the electrical current would be less in these areas than in areas near main storage facilities, less clearance and separation would be required.

Paragraph (b)(8) is a new provision limiting the amount of explosive material stored in auxiliary facilities near the underground work site. These facilities being near work areas are exposed to harsher conditions than a main storage facility. They may be subjected to rougher handling, environmental factors such as water, and the potential to be struck by mine equipment, and a restriction on quantity is warranted.

One commenter stated that the two-day supply restriction contained in the preproposal draft could create significant logistical problems. After reevaluating the amounts of explosive materials used at an individual work site, the size and material handling capabilities of the affected mines, and the protection provided by the construction requirements for the auxiliary facility, MSHA proposes to increase the storage limit to a one-week supply. This limit will minimize the hazards of unplanned detonation of large amounts of explosives by work site activities and protect the stored materials from deterioration, while permitting efficient scheduling of explosive materials delivery to work areas throughout the mine.

MSHA estimates that 5 percent of the facilities contain an average supply of two weeks of explosive material. To comply with the proposal, these mines would increase their deliveries from 26 times per year to 52 times per year. An average of additional hours per delivery is required. The additional annual operating cost for small mines would be $17,781 and for large mines, $51,985.

MSHA solicits comments on these preliminary estimates.

MSHA's preliminary analysis has not attributed any benefits to this new requirement because none of the injuries or fatalities that occurred in the past ten years would have been prevented by compliance. Hence, MSHA solicits comments on any benefits resulting from it.

Paragraph (b)(10) is a new requirement which addresses situations where unauthorized access can be gained to an underground work site during times when the mine is not working or is occupied by a few workers in areas where the auxiliary facilities are not present. The locked facility will assure that on-site miners and subsequently returning miners will not be endangered by unauthorized use of the stored explosive materials.

Transportation

Section 56/57.6200 Delivery to storage or blast site areas

The proposed standard modifies language addressing the need to avoid delay in the transportation of explosive materials to the blast site or storage facility. The phrase in existing § 56/57.6048 "* * * over routes and at times that expose a minimum number of persons" has been deleted since it has resulted in some unnecessarily circuitous routes being used, possibly increasing the overall risk.

Section 56/57.6201 Separation of explosive material

Existing standard 56/57.6040 requires that explosives and detonators be transported in separate vehicles unless separated by 4-inches of hardwood or the equivalent, and makes no distinction between Class A and Class C detonators. The proposed rule distinguishes between Class A and Class C detonators and specifies the transportation requirements for each.

MSHA's preproposal draft would have prohibited a detonator subject to mass detonation (a Class A detonator) from being transported in the same vehicle or conveyance as explosives or blasting agents. Several commenters objected to this prohibition and suggested that MSHA allow the use of the laminated partition container specified in the IME Safety Library Publication 22, "Recommendations for the Safe Transportation of Detonators in a Vehicle with Certain Other Explosive Materials." The Agency has adopted the suggestion that the IME container be allowed. However, to provide additional protection from the mass detonation hazard, MSHA is also requiring that appropriate packaging be used whenever Class A detonators are transported. This packaging, provided by the manufacturer, conforms with the DOT requirements for transportation of explosive material. These requirements limit the number of detonators, their total weight and their movement within the package and would reduce the likelihood of mass detonation. MSHA's proposed standard would prohibit all Class A detonators, and Class C detonators in quantities of more than 1000, from being transported in a vehicle or conveyance with explosives or blasting agents unless the detonators are maintained in the original packaging as shipped from the manufacturer and separated from the explosives or blasting agents by 4-inches of hardwood, laminated partition or equivalent. The Institute of Makers of Explosives' Booklet No. 22 may be used as reference material for Class A and Class C detonator separation.

A fire-initiating detonator in the vehicle could also detonate explosives. This hazard is greatly enhanced if the detonators are Class A. The DOT classification of detonators as Class A or Class C is based on tests involving quantities of 1000 detonators. Class A detonators are likely to mass detonate. The use of Class A detonators is becoming more prominent with the development of safer, less-sensitive explosives and blasting agents. Class C detonators are not likely to mass detonate. When the detonators are Class C, up to 1000 (the quantity tested by DOT) may be transported with other explosive material if separated from the explosive material by 4-inches of hardwood, laminated partition or equivalent. Class C detonators transported in quantities of more than 1000 must be treated as Class A detonators, in conformance with the Institute of Makers of Explosives' Booklet No. 22.

The proposal retains the concept of laminate construction but also includes language allowing for use of an "equivalent" protection. This language provides flexibility in compliance while clarifying that a laminated partition is acceptable. MSHA specifically solicits comments concerning the manner in which the separation of explosive material and Class A detonators is addressed.

Vehicles referred to in this proposed standard include carriers such as trucks, front-end loaders, railcars, and personnel carriers. A conveyance refers to various types of shaft and slope cages used to carry persons or materials.

There is little or no additional cost associated with the proposed standard. Some mines may have to transport Class A detonators separately if they are not maintained in their original packaging as shipped and separated from explosives by 4-inches of hardwood, laminated partition or equivalent. MSHA believes the cost to be minimal and request data to determine the number of affected mines and any cost that they might incur.

Section 56/57.6202 Vehicles

This proposed standard modifies, combines and clarifies existing standards 56/57.6042; 56/57.6043; 56/57.6044; 56/57.6047; 56/57.6050; 56/57.6053; 56/57.6065; 56/57.6077; and 56/57.6200. It addresses the hazard of an unplanned detonation of explosive materials during transportation on a mine vehicle. Detonation can result from vehicle fires, vehicle accidents, or construction of a vehicle with inappropriate materials.

In paragraphs (a)(1) and (a)(2), the proposal addresses construction requirements, warning signs and operational safeguards. The term "suitable" is deleted and the term "substantially constructed" is replaced with a more precise term "structurally sound." Several changes have been made to allow greater flexibility in vehicle construction. The phrase "secured to a nonconductive pallet" has been added as an alternative for compliance with sides and tailgate requirements.

Paragraph (a)(3) clarifies MSHA's intent as to where explosive material shall be located during transportation by vehicle. The proposal would clarify that the carrying of explosive material in the passenger area of a vehicle is not permitted.

Paragraph (a)(4) clarifies existing § 56/47.6042 which requires more than one extinguisher on vehicles used to transport explosive materials. The term "suitable" is replaced with the phrase "multipurpose dry-chemical fire extinguishers." Multipurpose dry-chemical fire extinguishers are "suitable" for fighting all classes of fires that would be expected to occur on a vehicle used to transport explosive materials. These vehicles usually have more than one person aboard. Providing two extinguishers allows for more than one person to fight the fire. In addition, tire fires can rekindle after the flame has been extinguished and the second extinguisher may be needed for resuppression. When faced with the hazards presented by fire near explosive or detonators, the need readily available fire extinguishers is of critical importance. The presence of two fire

extinguishers on a vehicle containing explosives or detonators could greatly reduce response time in fighting a fire. Under the proposal, an automatic fire suppression system can be used as an alternative to one of the extinguishers.

Paragraph (a)(5) is a new provision requiring vehicles to be vented unless transporting in bulk. While it may not be possible to vent bulk delivery vehicles, it is practical to vent other vehicles containing explosive material to avoid the build-up of heat and moisture which can result in premature detonation.

Existing standard 56/57.6043 requires posting of proper warning signs on vehicles containing explosives or detonators. Paragraph (a)(6) clarifies what "proper" warning signs would be and is consistent with language used in other posting sections of the proposed rule.

Paragraph (a)(7) clarifies the phrase "necessary attendants" used in existing standard 56/57.6053, by substituting the phrase "persons necessary for handling the explosive material".

Paragraph (a)(8) combines existing standards 56/57.6065 and 57.6077 concerning the need to attend vehicles during transportation of explosive material. Attendance provides vehicles security as well as protection for nearby miners against a runaway vehicle. The scope of the standard has been broadened to include blasting agents. While blasting agents are less sensitive than explosives, they still require special precautions. The terms "attended" and "loading" are defined terms in the proposed rule.

Paragraph (a)(9) addresses inadvertent movement of parked vehicles containing explosive material to prevent runaway vehicle accidents which could cause detonation of the contents. Paragaraph (a)(9)(i) is taken from existing standard 56/57.6044. The phrase "blocked securely against rolling" in existing standard 56.57.6044, is replaced by paragraph (a)(9)(ii) which requires wheel chocking only if the possibility of movement exists. Paragraph (a)(9)(iii) is a new provision which allows the engine to run while the vehicle is parked if it powers a device being used in the loading operation. Although commenters suggested that paragraph (a)(9) duplicates proposed mobile equipment standards 56/57.9036 and 56/57.9037, it contains additional specific requirements applicable to the hazards associated with explosive material.

Paragraph (b) makes editorial changes to existing standards 56/57.6047 and 56/57.6050 dealing with the hazard of spark-producing mate ial in the cargo space with explosives Sparks produced during transit or in an accident could detonate the entire load. MSHA agrees with the commenter who suggested that blasting agents should not be included in the coverage since they are not spark-sensitive.

The preproposal requirements applicable to bulk dispensing vehicles are contained in paragraph (c). Existing standard 56/57.6200 deals with the transportation and dispensing of blasting agents. The language has been written to address the dispensing of all types of bulk explosive material.

The proposed rule retains the requirement for protection against internal pressure and frictional heat when screw conveyors are used. This protection addresses potential fires and explosions in the vehicle. In the draft proposal MSHA used the word "excessive" to clarify the intended degree of internal pressure and frictional heat to be avoided in screw conveyor. MSHA agrees with a commenter that the word "excessive" is unnecessary and has deleted it from the proposed rule. Commenters objected to draft proposal language requiring venting "to allow free movement of air around the cargo", stating that such a regulation would be impossible to comply with. MSHA agrees that compliance would be impractical and has deleted this language. Existing standard 56/57.6200 prohibited zinc or copper exposed in the cargo space when blasting agents are transported. The proposal extends the requirement to vehicles used for dispensing any type of bulk explosive materials. As technology has evolved, bulk explosive material other than blasting agents has sometimes included chemicals which can react with zinc or copper.

Section 56/57.6203 Locomotives

This proposal combines existing standards 56/57.6041 and 56/57.6051 covering transportation of explosive materials on top of locomotives and in cars being pushed or towed by locomotives. Locomotives are normally powered through direct-current trolley wires, batteries or diesel engines. All three sources have the potential to generate heat or sparks which could cause a fire and unplanned detonation of the explosive material. Additionally, locomotives are not equipped with an enclosed space for material hauling. Any materials transported on top of a locomotive are subject to dislodging and subsequent impact during transit or in an accident.

When explosive material is transported in a car being propelled by a trolley-powered locomotive, a potential for electrical sparking and short circuits exist. These cars must be covered and electrically insulated. In addition, fall of ground or other impact can present a hazard to exposed explosive material. The required cover would protect the explosive material from impact.

Section 56/57.6204 Hoists

The proposal combines and clarifies existing standards 56/57.6054, 57.6075 and 57.6076 and addresses hazards encountered when conveying explosive material on hoists. The proposal broadens coverage to include surface operations. Many surface operations such as slate and dimension-stone mines utilize hoists to allow miners to enter and leave the work area.

The proposed surface and underground standards are identical with the exception that the underground standard requires hoisting to be stopped in compartments adjacent to those transporting explosive material. This exception is necesary to address the use of the large compartmentalized hoists used in some underground metal and nonmetal mines.

Paragraph (a) of the proposal would assure that hoist operators at surface mines as well as underground operations are notified that explosive material is being transported.

Paragraph (b) of the proposal requires containment of the explosive material in a structurally sound container to prevent shifting of the cargo which could cause detonation by impact or by sparks. The manufacturers' containers, usually cardboard boxes or plastic bags, are acceptable, provided they are secured to a nonconductive pallet and no sparks can be generated.

Paragraph (c) prohibits the transporting of persons on a hoist conveyance or mantrip containing explosive material. This provision minimizes the probability of injury during a hoisting accident involving explosive material.

Section 56/57.6205 Conveying explosives by hand

This proposed standard combines existing standards 56/57.6056 and 56/57.6057. To reflect the intent of the standard to isolate explosives from the elements during conveyance, the term "closed, nonconductive containers" replaces the phrase "substantial nonconductive containers" used in the existing standard. Draft proposal language expanding the coverage to include "blasting agents" has been deleted as suggested by one commenter, since blasting agents are not spark-sensitive. Language was added requiring detonators and other explosive material

to be carried in separate containers. This practice follows the principle that detonators and other explosive material should be kept separate until loading so that accidental initiation of detonators will not cause detonation of other explosive material. Other editorial changes have been made for clarity.

Use—Surface and Underground

Section 56/57.6300 Control of blasting operations

The proposed standard combines and clarifies existing standards 56/57.6090 and 56/57.6091 dealing with direction and supervision of blasting operations. MSHA proposes that only trained and experienced persons direct the specific tasks involved in blasting operations. Several commenters felt the existing standards are redundant with present training regulations. The training and experience needed to supervise or direct blasting operations in today's mines where the technology is continually changing would be expected to exceed the training provided to miners who simply handle explosives under a supervisor's direction. As new explosive materials are introduced at the mine, the persons directing the blasting operations shall be trained in the safe handling and use of the products. This training is normally on-the-job, provided at the mine site by a representative of the explosive manufacturer. These new products may create hazards in storage, transportation, loading, blast hook-up, blast area security, firing, and post-blast examinations. Training shall address these areas where appropriate.

Section 56/57.6301 Blasthole obstruction check

The proposal clarifies existing standard 56/57.6093 concerning obstructions in blastholes. When explosive materials are loaded into an obstructed blasthole, several safety related problems can occur. A partially obstructed hole can result in wedging of the primed charge at an improper depth in the hole. Manual maneuvering to dislodge the wedged material could result in a premature detonation. A partial obstruction could also cause a separation between the blasting agent and the initiating charge and a misfire could occur. In addition, obstructions which interfere with proper loading of the blasthole can result in poor fragmentation which could require that secondary blasting be performed. Obstructions could also increase flyrock and blowouts which pose injury risks to miners. The proposal clarifies that checks for obstructions must be performed before holes are loaded. Some obstructions can occur near the bottom of a blasthole without effectively blocking the entire hole. In these instances, loading can be accomplished to that depth without imposing safety hazards, and no restrictions apply. Where a rigid liner is inserted in the entire length of the blasthole and remains intact, the hole is considered checked and cleared of obstructions. Commenters to the draft proposal were concerned that all holes would have to be drilled before any one hole was checked. This requirement was not intended and the word "all" has been deleted from the final rule.

Section 56/57 .6302 Explosive material protection

This proposed standard deals with the need to provide a protected environment for explosive materials prior to loading. Paragraph (a) modifies exisiting § 56/57.6096 by substituting the word "loading" for the word "charging" and adding the term "blasting agents" for clarity. Paragraph (b) is a new requirement that is a basic safety practice to prevent premature initiation of the explosive material due to impact or heat. The many new types of explosive material presently in use at the mine site are sensitive to varying amounts of impact. In addition, large equipment capable of exerting heavy impact is often used in the loading environment. The IME cautions that temperatures in excess of 150° F are considered hazardous (Safety Library Publication No. 4, p.5, December, 1985).

Section 56/57.6303 Initiation preparation

This standard addresses the hazards of premature detonations and misfires associated with the preparation of primers. Paragraph (a) contains the requirements of existing standard 56/57.6098(a) with clarifying editorial changes requested by commenters. The requirements of proposed paragraph (b) appeared in the draft proposal as 56/57.6302(b). It substituted "blast site" for "blasting area" in existing standard 56/57.6097 and required that "primers shall be made up only at the time of use and as close to the blast site as conditions allow." One commenter suggested adding the words "as close to the time of use as practical" to paragraph (c). MSHA disagrees because the word "practical" provides no specific guidance in this matter. Preparing primers as close to the blast site as "conditions allow" more clearly conveys the needed safety concern. The preproposal draft incorporated this thought by requiring primer preparation as close to the blast site as conditions allow, and therefore, the proposal retains this language. Paragraph (c) retains the requirements of existing standard 56/57.6098 (b) with editorial changes. It protects against misfires by requiring that connections between detonating cord and other explosives be made in a manner which assures that the detonation will not be interrupted.

Section 56/57.6304 Primer protection

This proposed standard addresses the tamping or dropping of large cartridges of explosives or blasting agents directly on primers, a practice which can cause accidents and misfires.

Paragraph (a) adopts the tamping precautions of existing standard 56/57.6101 without change. Paragraph (b) is a new requirement which prohibits dropping of large cartridges of explosive material directly on a primer unless the blasthole is full of water. If cartridges are dropped into blastholes only partially filled with water, the cartridges are likely to spread from the impact and cause an interruption in the column of explosive material.

The draft proposal prohibited dropping cartridges greater than 3 inches in diameter. Commenters pointed out that 4 inches and greater sizes have bails which facilitate lowering, while smaller sizes do not. The proposal acknowledges this provision and prohibits the dropping of cartridges which are 4 inches or larger in diameter directly on a primer unless the hole is full of water.

Section 56/57.6305 Unused explosive material

This proposed standard has been revised to clarify existing standard 56/57.6102 dealing with unused explosives, and to provide uniformity with other standards. The "protected location" language of the proposal allows unused explosive material inside the blast area provided it would not be affected by concussion or flyrock.

Section 56/57.6306 Loading and blasting

The proposed standard deals with precautions during loading and blasting, and combines existing standards 56/57.6094, 56/57.6160, 57.6175, and 57.6182, and adds several new provisions. The proposal would apply to surface and underground operations. Paragraph (a) is a new requirement to assure proper treatment of explosive materials and initiating systems at the blast site. Explosive materials can be prematurely detonated if struck by moving vehicles or contacted by electrically-powered equipment.

Paragraph (b) is a new provision restricting activities near the blast site during loading. It also specifies the minimum distance from the loading and hook-up where work unrelated to the blasting operation is permitted. MSHA's draft proposal language required that "once loading begins, only activity directly related to the blasting operation shall be permitted within an area at least five times the face height in all directions from the blast site." Many comments were received objecting to this language as being unnecessarily restrictive. MSHA has reevaluated the provision and responded to these comments by excluding unrelated activity only from the blast site, a defined term. Activity at the blast site can interfere with the loading process and increase the likelihood of an accident.

Paragraph (c) requires that loading be a continuous operation to avoid the hazard of prolonged "sleeping" of explosive material. This proposal is a substitute for the requirement in existing standard 56/57.6094 that blasting occur within 72 hours of loading the hole unless prior approval is obtained. Several commenters felt an exception was needed from "continuous" loading when unusual circumstances exist. MSHA agrees. The proposal allows relief for emergency situations, shift changes, and idle shifts not to exceed 16 hours.

Paragraph (d) requires that when loading is suspended, the blast site shall be attended. MSHA's proposed definition of "attended" would allow electronic or video monitoring devices as well as the actual presence of an individual to satisfy this standard.

Paragraph (e) is derived from existing standards 56/57.6160, 57.6175, and 57.6182. It addresses the time when persons must be removed from the blast area to provide for their safety.

Paragraph (f) deals with the need to fire blasts without delay. Once all circuits have been connected, conditions at the blast site have reached their maximum potential to cause injury or death if an accidental detonation occurs. Blasts must be initiated as soon as possible once preparations have been completed.

Paragraph (g) provides for warning, clear escape routes from the blast area, and all access to the blast area to be protected against entry. Like the existing standard, the proposal provides that access to the blast area be guarded by persons, or barricaded. It clarifies that "barricade" in this provision means "obstructed to prevent the passage of persons or vehicles."

Paragraph (h) is a new provision requiring post-blast examinations to minimize hazards to persons who will perform subsequent work at the site. One commenter stated that the language for post-blast examinations would not adequately promote safety because it does not explicitly state that smoke, dust, and fumes should be evaluated in any post-blast examination. This degree of specificity is not necessary. Trained and experienced persons conduct these examinations and would address all the potential hazards present at a blast site including ground conditions, undetonated explosive materials and smoke, dust and fumes.

Section 56/57.6307 Drill stem loading

This proposed standard addresses the potential for premature detonation of explosive material while it is being loaded into the blastholes with drill stem equipment or other devices that could be extracted. It editorially revises existing standard 56/57.6142 for consistency with other standards by substituting the terms "explosive material" and "blastholes" for the existing language "explosives or blasting agents" and "boreholes". Accidental deaths and injuries have resulted from failure to recognize the detonation hazard potential which exists when explosive material is accidentally struck by extractable drill stem equipment. Commenters suggested no substantive changes and none have been made.

Section 56/57.6308 Initiation systems

Recent accidents and MSHA experience have indicated the need for this new standard to address the safe use of electric initiating systems. In cases where initiating systems are used incorrectly, a variety of malfunctions or unsafe practices can occur. Any malfunction in a multiple hole blast can result in uninitiated explosive material remaining in the rock or ore. When the rock or ore is excavated with large mining equipment the explosives may not be observed until they are introduced into the crushing and screening equipment where a hazard to persons is created. Recently a licensed blaster was testing equipment in a blast sequence. He picked up the sequential blasting cable plug lying alongside of the machine instead of the shunt plug. He plugged it in, proceeded through the test sequence of the charging machine and pressed the fire button. An unintended detonation occurred resulting in two injuries.

Any malfunction or misuse of an initiating system in a multiple hole blast can result in noninitiated explosive material remaining in the rock or ore. When the rock or ore is dug with large mining equipment, the explosives are not always observed until it is introduced to the crushing or screening equipment where it creates a hazard to persons.

Some commenters found the preproposal draft provision to be acceptable, however others felt that this provision was both unacceptable and unnecessary. MSHA believes that as a minimum, manufacturer's instructions relating to safe use of these systems must be followed to assure safety of miners. The manufacturer, when introducing technology, can be expected to be familiar with any new safety characteristics and can communicate the hazards in a timely manner.

Section 56/57.6309 Fuel oil requirements for ANFO

This new standard addresses misfires associated with less than maximum detonation of ammonium nitrate-fuel oil blasting agents. It prohibits the use of waste fuels as an oxidizer and restricts the use of other hydrocarbons. It requires that liquid hydrocarbon fuels used in ammonium nitrate-fuel oil have a minimum flash point of 125 °F or less to minimize the hazards of fuel storage and blasting agent mixing and use and to prevent the excessive build-up of fumes following a blast. The two primary concerns addressed by this standard are incomplete detonation and the creation of unusually high quantities of toxic fumes.

Section 56/57.6310 Misfire waiting period

The proposed standard combines and updates existing standards 56/57.6104 and 56/57.6105 dealing with the length of time a person must wait after a suspected misfire before entering the blast area. The phrase "when a misfire is suspected" is introduced as the criteria for determining when to wait the prescribed period before returning to the blast area. This language is added so that a person would not feel compelled to physically investigate to determine if a misfire has occurred. After a suspected misfire, persons shall not enter the blast area for 30 minutes if blasting caps and safety fuse are used; or 15 minutes if any other type detonators are used.

Section 56/57.6311 Handling of misfires

This proposal would combine existing standards 56/57.6106, 56/57.6168 and 57.6177 dealing with the examination for, and handling of misfires. The

competent person requirement in the draft proposal has been deleted as unnecessary since proposed standard 56/57.6300 requires a trained and experienced person to direct all blasting operations.

The proposal recognizes that mine personnel often have the capability of safely disposing of misfires without the need to immediately notify mine management of the misfire. Other misfire conditions may require the expertise of the manufacturer who can be contacted by mine management. For this reason, existing language has been modified to require reporting of all misfires either immediately or at the end of the shift depending upon conditions.

In paragraph (a) the term "searched" used in the preproposal draft has been changed to the more appropriate term "examined" as recommended by several commenters. This would comply with the original intent of the standard and conform with the language of existing standard 56/57.6106.

In paragraphs (b) and (c), several commenters suggested changing "affected areas" to "blast site". The proposed rule retains the "affected areas" terminology because an accidental detonation during the removal of a misfire is likely to affect an area larger than the blast site. Several commenters questioned the scope of the phrase "only work necessary to remove any misfires" appearing in paragraph (b). MSHA clarifies its intent by adding to the proposal language which would include any work related to securing the safety of miners in the affected area. For example, necessary control of ground in the misfire area would be permitted prior to removing the misfire.

Section 56/57.6312 Secondary blasting

Existing standard 57.6141 deals with multiple secondary blasts in a blasting area. Its intent is to minimize risks associated with the unnecessary use of multiple initiation sources in a work area when one source will suffice. Because this principle is equally applicable for surface and underground operations, the scope has been expanded to include secondary blasting at surface operations as well as underground mines.

The term "blast area" is used in the existing standard. However, the proposed rule definition of "blast area" has been broadened to include those areas of the mine affected by shock waves, flying material or gases. The proposed rule uses the term "work area", more accurately reflecting the original intent of the standard.

Section 56/57.6313 Blast site security

This standard addresses hazards present where loading is completed and the hole is awaiting firing. It replaces existing standard 56/57.6103. The term "loaded" is substituted for "charged" and the term "attended" is substituted for "guarded" for consistency with other standards. The existing standard allows alternatives to guarding. The area can be barricaded and posted, or flagged against unauthorized entry. Comments indicated that it is appropriate to continue to allow these alternatives to "attending" the site. The proposed rule incorporates the comments by allowing barricading and posting, or flagging against unauthorized entry.

Electric Blasting—Surface and Underground

MSHA has received communication from industry concerning the quality of the insulation used for blasting wire and cable. The Agency solicits comments on the issue of substandard insulation and the desirability of establishing minimum insulation specifications. An alternative to a specification standard would be to include in the final rule, language adopted from the following which appears in the existing 56 and 57.2 definitions:

"Insulated" means separated from other conducting surfaces by a dielectric substance permanently offering a high resistance to the passage of current and to disruptive discharge through the substance. When any substance is said to be insulated, it is understood to be insulated in a manner suitable for the conditions to which it is subjected. Otherwise, it is, within the purpose of this definition, uninsulated. Insulating covering is one means for making the conductor insulated.

"Insulation" means a dielectric substance offering a high resistance to the passage of current and to a disruptive discharge through the substance.

Section 56/57.6400 Compatibility of electric detonators

This standard modifies existing standard 56/57.6119 and prohibits the use of incompatible electric detonators in the same round. Individual explosive material manufacturers and the IME caution that electric blasting caps of different manufacturers should not be mixed in the same series. Ignition systems may not be electrically compatible and misfires may occur. The term "brand" appearing in the existing standard is replaced with "manufacturer". Commenters agreed that "manufacturer" should be used.

Section 56/57.6401 Shunting

This proposal addresses shunting. It provides protection against premature detonation caused by extraneous current flowing through the individual portions of the circuit as they are prepared. Editorial changes have been made in existing standard 56/57.6120 for clarity. Commenters objected to the removal of the reference to blasting galvanometers in the existing standard. The requirement for these testing devices is retained in proposed standard 56/57.6407, Circuit testing.

Section 56.6402 Deenergized circuits near detonators

This proposal modifies existing standard 56/57.6126. It addresses the need to deenergize electrical circuits in a blast site where electric detonators are used, so that stray current will not be introduced. Stray current can cause a premature detonation during the loading process.

The proposal also provides an alternative compliance method by allowing for stray current tests in lieu of deenergization. The tests must indicate that stray current levels in the area are sufficiently low so that they would not cause detonation. Otherwise, all electrical circuits within 50 feet of electric detonators at the blast site shall be deenergized when electrical detonators are used. At surface operations, voltages in excess of 650 volts are common. The use of any power cable that has copper-braid shielding, such as types SHD or SHC, is recommended to minimize stray current hazards. MSHA specifically solicits comments on the desirability of requiring that specific distances be established separating high voltage lines from the surface blast site where electric detonators are being used.

As pointed out in the "Handbook of Electric Blasting", Atlas Powder Company (1976), electric current will always flow from a higher voltage to a lower voltage through whatever conductive paths are available to it. If the insulation around a conductor in a power system or a piece of electrically operated equipment is defective, part of the current in the conductor can leak out and follow other conductive paths to the lower voltage. Thus, this type of stray current could pass through such alternate conductive paths as: (1) The earth, (2) damp timbers, (3) metal pipelines, (4) machinery housings, (5) track rails, (6) metal fences, (7) a conductive rock strata that lies on top of or between two nonconductive strata or (8) other conductive material in

electrical contact with the defect in the insulation. A potential hazard exists if an electric detonator becomes part of one of these alternate conductive paths. In the proposed stray current test, the 1-ohm resistor is used to simulate the electric detonator. Any stray current flowing in the circuit is detected by measuring the voltage drop across the resistor. The measured voltage drop cannot exceed the equivalent of 0.050 amps. This maximum stray current provides a safety factor and is 20% of the 0.250 amp firing current for electric detonators.

The frequency of stray current testing should be determined by considering factors such as: changes in the conductivity of the ground; relocation or change of a source or conductors of electrical current; and the continual development of new blast sites as mining progresses. The term, "electric blasting caps" is changed to read "electric detonators" as suggested by commenters. Other editorial changes have been made.

Section 56/57.6403 Branch circuits

This proposal modifies existing standard 56/57.6125, addressing unintentional current in branch circuits. It protects miners by requiring that safety switches provide isolation of the circuits to reduce the hazard of premature detonation. The proposal allows equivalent methods of isolation to be used.

Permanent blasting circuits are often used by more than one miner, particularly in underground mines. The safety switch required in the standard is used to protect individuals from unintentional voltage when another miner may be energizing the circuit which would cause an unplanned ignition. This circuit is similar to an electrical lock-out when working on an electrical circuit.

Section 56/57.6404 Positive separation of blasting circuits from power source

Existing standard 56/57.6127 addresses blasting switches and lead wire connections to the switch. The intent is to prevent accidental initiation of a blast by premature completion of the circuit. There were no changes suggested by commenters and the proposed rule appears with editorial changes only.

Section 56/57.6405 Firing devices

This proposal combines existing standards 56/57.6128 and 56/57.6131 and deals with power sources and control of firing devices. Paragraph (a) addresses the need to provide sufficient power to prevent misfires. Electric detonator manufacturers specify that a minimum of 1.5 amps direct current (DC) or 2.0 amps alternating current (AC) be supplied to any single series or parallel series circuit. Many metal and nonmetal blasts include several hundred detonators and varying amounts of resistance dependent upon lengths and composition of leg wires and lead wires, series and parallel series circuits, and current leakage. It is incumbent upon the operator to evaluate these power needs and use the proper source. The use of storage or dry cell batteries is not acceptable as a power source because dry cell batteries cannot be relied upon to have sufficient power to detonate a round and there is no built-in mechanism to alert the user that a low electric charge exists.

Paragraph (b) is a new provision which addresses the need for proper maintenance of blasting machines. Advances in technology have led to increasing complexity in firing devices. All blasting devices, including sequential timers, should be maintained in accordance with the manufacturer's instructions to assure effective operation. Defective or improperly repaired blasting machines can contribute to misfires creating hazards to persons. For example, on September 19, 1988 in Lafayette, New Jersey, the bucket of a front-end loader struck an undetonated charge buried on the floor of the quarry, the ensuing explosion injured the operator. The incident might have been prevented if the contract blaster working for the mine operator had properly maintained, tested, and repaired his blasting machine as prescribed in proposed §§ 56/57.6405. The blasting machine being used at this operation was a sequential timer that energizes multiple electric blasting cap circuits in a programmed sequence. The timing system provides blasting operators with a greater number of delays than is available with a conventional blasting machine. According to the preliminary accident report, the machine "shut down" meaning that some or all of the circuits were not being energized appropriately. MSHA believes that compliance with the standard on examination for misfires, §§ 56/57.6311 and this standard, addressing proper maintenance, testing, and repair of blasting machines would have prevented this incident. MSHA solicits comments on other incidents which might have been prevented by this new provision.

In developing an annual cost for this new provision, MSHA has estimated that fifty percent of the mines blast electrically and eighty percent of those would comply voluntarily as a safe work practice and company policy. Cost for those mines not complying would be $200 per mine. Mines average one machine per mine. The total annual cost for small mines would be $69,700 and for large mines would be $23,180. MSHA solicits additional information on the various paramenters and costs associated with testing, repairing, and maintaining blasting machines.

Paragraph (c) assigns control of the firing device key to the blaster. Several commenters suggested that the language relating to "person designated" in the existing standard be used instead of the term "blaster". MSHA disagrees. The blaster would be a knowledgeable person fully trained in all phases of blasting operations and is more likely to have been involved in the loading process and the evaluation of the safety hazards associated with the blast. MSHA is considering including all firing devices, not only electrical devices in this requirement. Comments are solicited on this issue. Editorial changes have also been made to existing standard 56/57.6131.

Section 56/57.6406 Duration of current flow

This standard clarifies existing standard 56/57.6133 which addresses the prevention of misfires through limiting the duration of current flow. The proposal modifies the existing standard by allowing the operator to choose the manner in which the current flow would be limited.

"Arcing" occurs when excessive current within the electric detonator causes a build-up of heat at the bridgewire. The build-up can result in a misfire. When electric blasting is performed from power sources such as powerlines or lighting circuits which provide a continuous current, the duration of current flow must be limited to prevent arcing within the detonator. Manufacturers have determined that arcing can be avoided if the current flow time is limited to 25 milliseconds. The phrase "zero-delay" has been changed to "25 millisecond delay", the more precise term. In response to comments, the phrase "explosive charge" in the existing standard is changed to "explosive device" for clarity.

Section 56.6407 and 57.6407 Circuit testing

The proposal editorially modifies existing standard 56/57.6121 dealing with circuit testing. Testing of circuits helps prevent misfires by determining whether an individual series circuit is closed and by locating broken wires and

connections. When blasting electrically, the circuit must be tested for continuity and for resistance at surface mines and for continuity at underground mines prior to blasting. The required testing differs between surface and underground mines since surface holes are deeper, larger, and different types of priming systems are used.

This standard also addresses the need to use the appropriate type of testing equipment to avoid introducing excessive current which has resulted in premature detonations and fatalities. Used properly, blasting galvanometers produce the correct amount of current for testing the circuit. The term "borehole" is proposed to be changed to "blasthole" for consistency. As suggested by commenters, the term "electric blasting caps" has been changed to the proper term, "electric detonators."

Nonelectric blasting—Surface and Underground

Section 56/57.6500 Damaged initiating material

This proposal revises existing standard 56/57.6109 which addresses the prevention of misfires from defective initiating material. The phrase "shock and gas tubing and similar material" is added to include recent technological developments in the coverage of the standard. A commenter stated that the term "shock tubing" is no longer used by the manufacturers to describe this initiating material. While manufacturers may be identifying the product by its brand name, the term "shock tubing" is understood by the industry and has been included in manufacturers' publications.

Except for gas tubing, there is no method of testing the continuity of these initiating materials prior to blasting. To avoid misfires it is extremely important to protect the integrity of the material by using components which are not kinked, bent sharply or damaged. It is also important to check visually to assure that components are properly aligned and connected. This requirement has been included in the proposed rule.

Section 56/57.6501 Nonelectric systems

This proposal combines existing standards 56/57.6115, 56/57.6163, and 56/57.6164 which address misfire hazards encountered in detonating cord blasting. For other nonelectric blasting systems, it also addresses the misfire hazard from interruptions or cut-offs to the initiation line.

A new provision in paragraph (a) requires the use of double trunklines or loop systems to help prevent misfires when blasting with any nonelectric system. There are three exceptions. First, paragraph (a)(1) excepts safety fuse blasting because of its uniqueness. The provisions dealing with safety fuse are set out in 56/57.6502. Secondly, paragraph (a)(2) excludes secondary blasting from the double-trunkline requirement. MSHA agrees with public comment that a misfire would be obvious in a secondary blast and easily dealt with. Third, paragraph (a)(3) allows the operator to forego use of the double trunkline or loop system when using in-the-hole delays of sufficient duration to retard ground movement. This method has been effective in preventing misfires due to cut-offs.

Paragrahs (b) and (d) are new provisions dealing with the shock tube and gas tube blasting systems which have recently been introduced into the mining industry. These paragraphs set out basic safety practices as outlined by the individual manufacturers. The proper handling of shock tube initiation systems is essential because it cannot be checked for continuity. It is also directional in nature and cannot be spliced to another length of shock tube by the traditional knotting or tying techniques. When connecting shock tube to other initiation devices such as the detonating cord trunkline, it is necessary that all joints be kept tight and at right angles to the trunkline. Otherwise cut-off can occur and result in a misfire. Special connectors are available for connecting shock tube to detonating cord. When connecting shock tube to another length of shock tube, propagation can only be assured if the correct type of connector is used.

Paragraph (c) addresses detonating cord blasting. Paraqraph (c)(1) is a new requirement to assure that a premature detonation in the blasthole will not transmit detonation to the entire spool of cord on the surface. Paragraphs (c)(2), (c)(3), and (c)(4), have been revised in this proposal to allow the mine operator flexibility in the shot design while addressing the hazards of misfires due to cut-offs. The requirements of these paragraphs retain the same degree of safety as the prior specific requirements of crossties at 200 feet intervals and tight connections at right angles to the trunkline. Paragraph (c)(5) is a new provision designed to protect the integrity of the cord and connections from damage by loading activities so that misfires will not occur.

Section 56/57.6502 Safety fuse

The proposed standard combines existing standards dealing with safety fuse into one standard. They are: §§ 56/57.6110, 56/57.6111, 56/57.6112, 56/57.6113, 56/57.6114, 56/57.6116, 56/57.6117 and 56/56.6118.

Paragraph (a) requires that the burning rate of each spool of safety fuse be checked and that users be made aware of the rate. Manufacturers acknowledge that burning rates vary as much as plus or minus ten percent. Additionally, during storage and handling, factors such as dampness and mishandling may create an evern greater variation in the burning rate. Blasters must know the burning rate of the fuse in use in order to properly time the individual shots and allow an opportunity to evacuate safely.

Paragraph (b) addresses the minimum burning time for safety fuse depending on the number of holes to be fired. It recognizes that the length of lighting time varies with the number of fuses to be lit, and provides time for the miner to evacuate before holes begin to detonate.

Paragraph (c) assures that the timing of safety fuse is considered so that all fuses are burning within the hole before the first blasthole detonates. Failure to take this precaution could result in undetonated holes, leaving unwanted explosive material in the muckpile to be handled later.

Paragraph (d) includes a quality control measure to assure ease of lighting and consistency of the burning rate. When lighting multiples of safety fuse which have a specified burning rate, it becomes important that a minimum amount of time is taken to light each individual fuse. Smoking cannot be permitted in this area due to the spark sensitivity of the black powder train in the fuse.

Paragraphs (e) and (f) contain only editorial changes. The existing standards provides for effective connection betweeen the fuse and cap and prohibits lighting prior to placement.

Paragraph (g) specifies certain types of devices which shall not be used to light safety fuse. These devices may induce erratic burning rates, and may not provide reliable initiation of the fuse.

Paragraph (h) provides a safety factor during the critical fuse lighting operation. It addresses the need to provide sufficient evacuation time and reduces the possibility of some fuses being missed as the area becomes smoke-filled. On March 13, 1982, two miners were fatally injured when they attempted to light more fuses than time and the smoke-filled environment permitted. In addition, they were lighting their fuses with inappropriate devices which would be prohibited by paragraph (g). MSHA specifically solicits

comments on the acceptability of further reducing the number of safety fuses that can be lit by individuals to ten. Above that number, the use of igniter cord would be required. The Agency also solicits comments on the frequency at which the buring rate of safety fuse should be posted.

Extraneous Electricity—Surface and Underground

Section 56/57.6600 Loading practices

Existing standard 56/57.6123 requires that loading be suspended if extraneous electricity is detected when using electrical detonators. The proposal substitutes the word "suspected" for "detected" to increase the margin of safety. Adopting the suggestion of a commenter, the proposal sets out a threshold level to determine the presence of stray current. The threshold is the level recommended by the IME and is accepted by the industry as a safe level of extraneous electricity for electric blasting. It is based upon the current required to detonate electric detonators.

The minimum firing current of detonators is approximately 0.25 amperes. The manufacturers have established that the maximum safe current flow through a detonator, without the potential for initiation, is one-fifth of the minimum firing current, or 0.05 amperes. The 1-ohm resistor specified in the test represents the same resistance as the electric detonator. One commenter stated that MSHA's draft proposal language which allowed no extraneous current is inappropriate and inconsistent with draft proposal language in standard 56/57.6402. MSHA agrees. The proposed language that stray current not exceed "0.05 amperes through a 1-ohm resistor," is consistent with proposed standard 56/57.6402.

Editorial changes have also been made. The term "extraneous electricity" includes both static electricity and stray current. The word "loading" replaces "charging" and the word "detonators" replaces "caps" for consistency.

Section 56/57.6601 Grounding

This proposal clarifies existing standard 56/57.6129, addressing the hazard of ground wires conducting extraneous electricity through the blasting circuit and into the blast area. It is important that electrical blasting circuits be isolated or insulated from any other electrical sources and not grounded, so that fault currents are not introduced into the blasting circuit.

MSHA adopts a commenter's suggestion to broaden the existing language. The phrase "including powerline sources when used" clarifies that all methods of electric initiation are covered. The standard also has been edited for clarity.

Section 56/57.6602 Static electricity dissipation during loading

This proposal addresses the build-up of static electricity during pneumatic loading or dropping of explosive materials into a blasthole. It expands the scope of existing standards 56/57.6193; 56/57.6194; 56/57.6195; and 56/57/6198, which explicity cover "blasting agents", to address all explosive material.

The proposal requires that an evaluation of potential static electricity hazards be made and that the hazard be eliminated before loading begins. It also prohibits the use of wire-countered hoses and plastic tube hole liners where their use could create the hazard of unwanted current flow.

The proposal also contains requirements for loading equipment used in pneumatic placement of explosive material. Loading hoses must be semi-conductive so that static electricity generated during the loading process is harmlessly dissipated. The hose must, however, provide sufficient resistence to prevent stray current from reaching the detonators which could result in a premature detonation. The loading vessel and its component parts must be bonded and grounded to complete the flow path for static electricity to ground and to prevent the vessel from serving as a storage capacitor for the generated static electricity.

The draft proposal contained specifications for loading hose which were derived from the NFPA Code No. 495. Manufacturers specify differing amounts and tolerances for resistance of the hose depending upon the mining environment. The proposal contains language which will assure that the characteristics of the hose will be appropriate for the conditions present and will provide protection against premature detonation.

Some commenters acknowledged the hazard of using plastic hole liners, but suggested that their restriction is appropriate only when electric detonators are used. The agency concurs and the proposal includes this revision. Commenters also requested clarification that plastic bags containing stemming and explosive materials would not be covered by this standard. These objects are not considered to be plastic tube hole liners and would be exempt from the provisions of the standard.

Section 56/57.6603 Air gap

No change has been made to existing standard 56/57.6130. The standard provides for an air gap to reduce the potential for extraneous electricity bridging the distance between blasting circuits and electric power sources.

Several commenters objected to the 15-foot air gap separation and contended that there was no electrical criteria to support it. These commenters argued that a 5-foot air gap provided a suitable measure of protection. However, they supplied no electrical criteria in support of this distance. Commenters further contended that the size of underground mine openings are not large enough to permit a 15-foot separation space and that the MSHA standard should be made consistent with the OSHA 5-foot air gap standard for underground construction.

The OSHA standard is based on ANSI document A–10–7–1970. The MSHA 15-foot air gap is based upon more recent recommendations of the manufacturers of explosive material used in these metal and nonmetal mines, and the industry consensus standards as contained in National Safety Council Data Sheet 1–644–74. It also takes into account the high amperages generated by lightning strikes and the fact that lightning can reach the blast site in metal and nonmetal mines through many paths, such as transmission lines, water lines, compressed air lines, conductive ore bodies and rails. The agency cannot perceive of an underground environment where the 15-foot gap could not be achieved, either from the width of the opening or the length of the drift.

Section 56.6604 and 57.6604 Precautions during storms

This proposal divides existing standard 56/57.6124 into two standards, §§ 56.6604 and 57.6604. It broadens the scope of the existing surface blasting standard to require the evacuation of personnel when an electrical storm is approaching, regardless of the type of initiation systems being used. MSHA is considering requiring evacuation when the storm is within five miles of the site and specifically solicits comments on the appropriateness of this provision. It also revises the language applicable to underground mines to address those situations where lightning strikes on the surface can travel underground and create a hazard. For surface blasting, the NFPA document 495 7–1.15(c), 1985 and manufacturers of explosive material agree that a direct lightning strike on any type of initiation system can result

in detonation. Agency statistics indicate that premature detonations have been initiated by lightning in underground mines when paths such as air lines, water lines, rails, and conductive ore bodies are present. Each mine operator would evaluate his underground entrances and ore body to determine whether a path is provided for lightning to travel to a blasting area.

The proposal would require that a determination be made that an electrical storm is in progress and is indeed approaching the blast area before evacuation of the blast area must occur. Some commenters suggested that MSHA adopt the Arizona Code language for determining when persons should evacuate a blast area during the approach of a storm. The Arizona Code uses the phrase "during the ominous approach and progress" of a storm. These commenters contend that the approach of a storm may be hours away and evacuation may not yet be necessary. However, the proposal does not incorporate the term "ominous" since the term may be construed to mean "arrival" of the storm. Recent fatalities resulting from premature detonations attributable to lightning strikes indicate that the danger can exist well before a storm may be considered ominous to those affected. In addition to lightning, the atmosphere can also build up dangerous charges of static electricity at distances far removed from the storm center.

The proposal also incorporates suggestions of commenters to include language calling for the withdrawal of persons "to a safe location." As stated by one commenter, a safe location would provide protection against both explosive and lightning hazards.

Section 56/57.6605 Isolation of blasting circuits

Existing standard 56/57.6162 deals with the need to isolate the blasting circuits from sources of extraneous electricity. It also addresses the force of the blast that can propel firing lines into contact with overhead powerlines. Coverage is expanded to underground as well as surface applications since the same safety principles are applicable underground. Overhead powerlines include trolley lines. For clarity, MSHA has adopted the suggestions of two commenters to include the language "stray or static" electricity instead of "extraneous" electricity and "contact between firing lines and overhead powerlines."

Equipment/Tools—Surface and Underground

Section 56/57.6700 Nonsparking tools

Proposed standard 56/57.6700 combines and editorially revises existing standards 56/57.6099 and 56/57.6134 dealing with the use of nonsparking tools when preparing packaged explosive materials for use. Some explosive materials contain spark-sensitive and potentially spark-generating ingredients. The proposal should reduce the likelihood that sparks would be generated by requiring that nonsparking tools be used for punching holes in cartridges.

Existing standard 56/57.6134 deals with the use of nonsparking implements to open containers. The agency considered deleting the standard if explosive material could no longer be found packaged in metal containers and if nonmetallic containers in use had no metallic fasteners which could contribute to the generation of a spark. Upon review, however, it was recognized that black powder is presently shipped in metal containers and many metallic fasteners are used in the packaging of explosive material. In view of these packaging practices and the possibility that a tool used to open a cartridge of explosive material could puncture the contents, the proposal also requires that nonsparking tools be used for opening containers of explosive material and for punching holes in explosives cartridges.

Section 56/57.6701 Tamping and loading pole requirements

Proposed standard 56/57.6701 clarifies existing standard 56/57.6100 and affirmatively responds to commenters' requests to provide language allowing material other than wood to be used for tamping poles. The draft proposal permitted the use of products other than wood for tamping and loading poles. It specified, however, the electrical resistance criteria for these alternative products. Although commenters were in general agreement with the standard and its intent, some commenters observed that the resistance requirements may not be achievable, even in wooden poles, where a wet environment is encountered. Manufacturing requirements for resistive tamping and loading poles specify an electrical resistance of more than 5000 ohms per foot and less than 3 meg ohms per foot. The proposal contains no reference to these specifications but rather requires that poles be nonconductive and nonsparking and that couplings be nonsparking. The agency specifically solicits additional comments on the potential for generating static electricity while tamping explosive material with a non-wooden pole.

Maintenance—Surface and Underground

Section 56/57.6800 Storage facilities

This proposed standard describes precautions to be taken when an explosive material storage facility is repaired. Existing standard 56/57.6012 requires removal of material and cleaning for all interior repairs. The proposal requires removal and cleaning only if a spark or flame could be generated.

The existing standard also requires material removal to a "safe distance" and requires that the material be "properly guarded." The proposal requires removal of all explosive material to a distance of 50 feet. Repairs which generate sparks are generally of a welding or cutting nature. In these instances, the hot sparks are propelled outward from the work site. A minimum of 50 feet, as recommended by manufacturers, is needed for safety.

"Monitored" has been substituted for "properly guarded" to allow the mine operator latitude for security measures. In most instances, the workers performing the repairs would do the monitoring.

Section 56/57.6801 Vehicles

This proposal editorially revises existing standard 56/57.6045 and incorporates commenters' language substituting "explosive materials" for "explosives or detonators" and "into" for "to". That standard prohibits vehicles containing explosive material from being taken into a repair garage or shop, where ignition sources are present.

Section 56/57.6802 Bulk delivery vehicles

This new standard addresses the detonation hazard created when heat is applied to equipment on bulk delivery vehicles which have contained explosive material. The new venting requirement for hollow shafts is derived from the National Fire Protection Code 495, 1985 edition, to provide for the escape of gases which could be generated if even minimal amounts of residue remain inside the shaft when heat is applied.

Section 56/57.6803 Blasting lines

This proposed standard adds a requirement to existing standard 56/57.6122 which addresses the quality of permanent blasting lines. The proposal requires that not only permanent

blasting lines but "all" blasting lines be insulated, physically separated from pipelines, power cables and other conductors, and kept in good repair. This minimizes the risk of pre-ignition and reduces the possibility of misfires.

General Requirements—Surface and Underground

Section 56/57.6900 Damaged or deteriorated explosive material

This proposal revises existing standard 56/57.6092, dealing with disposal of defective explosives. Delay detonators that are at least five years old cannot be used or stored because the delay element becomes erratic and may cause misfires or out-of-sequence firing. MSHA's preproposal draft would have required that damaged or deteriorated explosive material be disposed of "only on the surface". Commenters objected to this change because it would introduce additional hazards entailed in the handling and transporting of damaged or deteriorated explosives to the surface for removal. MSHA agrees and retains the existing requirement for safe disposal of these explosives. The proposal makes editorial changes to the existing standard.

Section 56/57.6901 Black powder

The proposal combines and editorially revises existing standards 56/57.6136 and 56/57.6137 and adds the requirement that containers of black powder be constructed to be nonsparking. Black powder is presently used in the metal and nonmetal mining industry as the powder train in safety fuse and in bulk form in dimension stone mining. This standard addresses bulk use. Black powder when used in bulk form is extremely spark and heat sensitive. For this reason, black powder must be handled with extreme caution. Spills, which could occur any time the bulk material is handled, must be especially avoided in the vicinity of a magazine. Vehicular and foot traffic in this area while loading and unloading magazines could spread this substance over a wider area and expose it to heat sources such as engine manifolds and catalytic converters. For this reason, MSHA proposes to retain the existing requirement that black powder containers shall not be opened within 50 feet of any magazine. The proposed standard also retains existing provisions that prohibit the opening of containers of black powder within 50 feet of sources of open flame or sparks because the material is so spark sensitive. These provisions are consistent with other proposed standards that require separation of ignition sources from explosive material by 50 feet.

The nonsparking container requirement is intended to prevent the practice of transferring black powder into small metal cans before loading. Manufacturers often supply black powder in metal containers. These containers, however, are coated with a nonsparking material and their continued use will be accepted.

The proposal would prohibit holes from being reloaded for at least 12 hours when the blastholes have failed to break as planned due to the potential hazard of residual heat from the initial blast.

Section 56/57.6902 Hot holes

Proposed standard 56/57.6902 deals with placement of explosive materials in holes where heat could cause premature detonation. It revises existing standard 56/57.6138 for clarity, and the term "explosive material" replaces the phrase "explosives or blasting agents" for consistency. The temperature of holes suspected of being hot should be measured before loading. Explosive material cannot be safely loaded into holes having a temperature above 150° F. These temperatures are often encountered where explosives have been used to enlarge or "spring" the holes, or when blasting near fires or other hot areas such as kilns. Ammonium nitrate-fuel oil blasting agents, or blasting materials reacting with sulfide ores may also generate high temperatures.

Section 56/57.6903 Burning explosive material

Existing standard 56/57.6161 addresses actions to be taken with burning explosives at the blast site. The proposal broadens the scope of the existing standard. It expands the "surface only" application of the standard to include underground areas because burning explosives can occur anywhere blasting is performed. Incomplete detonation in a blasthole can lead to the slow burning of explosives in the hole. The IME recommended that these locations not be approached for at least one hour after the apparent burning has stopped. MSHA agrees and has incorporated this language into the standard. Editorial changes have been made to the standard.

Section 56/57.6904 Smoking, open flame restriction

Existing standard 56/57.6250 which prohibits smoking and open flames near explosive materials is editorially changed for clarity.

General Requirements—Underground Only

Section 57.6960 Mixing of explosive material

Existing standard 57.6220 prohibits the mixing of ammonium nitrate-fuel oil blasting agents underground. The draft proposal would have prohibited the underground mixing of all blasting agents. Commenters objected, stating that underground mixing of blasting agents would actually promote safety when done properly. One commenter pointed out that hazards associated with mixing and handling of ammonium nitrate-fuel oil included the potential build-up of static electricity and fine dust upon handling and processing. As ammonium nitrate is crushed finer and finer, it becomes more and more sensitive to many stimuli, such as sparks, friction, impact and shock. The commenter indicated that these hazards do not exist or are greatly reduced when mixing slurries or emulsions. MSHA is proposing to allow bulk mixing underground to produce explosive material in the form of slurry or emulsions but only under conditions which minimize the possibility of heat build-up, fire and sparks. The agency specifically seeks comments relating to the hazards associated with bulk mixing underground, the need to restrict the location of these mixing facilities and related storage facilities, the need to indicate the location of all mixing and explosive material storage facilities on the mine escape and evacuation maps or the ventilation plans, and the appropriateness of the proposed standard.

H. Derivation Table

The following derivation table lists: (1) The number of the proposed standard, and (2) the number of the existing standard. Standards that uniformly appear in 30 CFR Parts 56 and 57 are referred to in this table as 56/57.

DERIVATION TABLE

Proposed Number	Existing Number
56/57.6100	56/57.6002 and 56/57.6008
56/57.6101	56/57.6005
56/57.6102	56/57.6007 and 56/57.6011
56/57.6130	56/57.6001
56/57.6 and 57.6131	56/57.6020
56/57.6132	56/57.6020
56/57.6133	56/57.6159
57.6160	New
57.6161	57.6027, 57.6029 and 57.6030
56/57.6200	56/57.6048
56/57.6201	56/57.6040

DERIVATION TABLE—Continued

Proposed Number	Existing Number
56/57.6202	56/57.6042, 56/57.6043, 56/57.6044, 56/57.6047, 56/57.6050, 57.6053, 56/57.6065, 57.6077 and 56/57.6200
56/57.6203	56/57.6041 and 56/57.6051
56.6204 and 57.6204	56/57.6054, 57.6075 and 57.6076
56/57.6205	56/57.6056 and 56/57.6057
56/57.6300	56/57.6090 and 56/57.6091
56/57.6301	56/57.6093
56/57.6302	56/57.6096
56/57.6303	56/57.6097 and 56/57.6098
56/57.6304	56/57.6101
56/57.6305	56/57.6102
56/57.6306	56/57.6094, 56/57.6160, 57.6175, and 57.6182
56/57.6307	56/57.6142
56/57.6308	New
56/57.6309	New
56/57.6310	56/57.6104 and 56/57.6105
56/57.6311	56/57.6106, 56/57.6168 and 57.6177
56/57.6312	57.6141
56/57.6313	56/57.6103
56/57.6400	56/57.6119
56/57.6401	56/57.6120
56/57.6402	56/57.6126
56/57.6403	56/57.6125
56/57.6404	56/57.6127
56/57.6405	56/57.6128 and 56/57.6131
56/57.6406	56/57.6133
56.6407 and 57.6407	56/57.6121
56/57.6500	56/57.6109
56/57.6501	56/57.6115, 56/57.6163, and 56/57.6164
56/57.6502	56/57.6110, 56/57.6111, 56/57.6112, 56/57.6113, 56/57.6114, 56/57.6116, 56/57.6117, and 56/57.6118
56/57.6600	56/57.6123
56/57.6601	56/57.6129
56/57.6602	56/57.6193, 56/57.6194, 56/57.6195, and 56/57.6198
56/57.6603	56/57.6130
56.6604 and 57.6604	56/57.6124
56/57.6605	56/57.6162
56/57.6700	56/57.6099 and 56/57.6134
56/57.6701	56/57.6100
56/57.6800	56/57.6012
56/57.6801	56/57.6045
56/57.6802	New
56/57.6803	56/57.6122
56/57.6900	56/57.6092
56/57.6901	56/57.6136 and 56/57.6137
56/57.6902	56/57.6138
56/57.6903	56/57.6161
56/57.6904	56/57.6250
57.6960	57.6220
56/57.7055	56/57.6107
56/57.7051	56/57.6135

I. Distribution Table

For the convenience of the reader, the following distribution table has been added as a cross-reference guide. Standards that uniformly appear in 30 CFR Parts 56 and 57 are referred to in this table as 56/57.

DISTRIBUTION TABLE

Existing Number	Proposed Number
56/57.6001	57/57.6130
56/57.6002	56/57.6100
56/57.6005	56/57.6101
56/57.6007	56/57.6102
56/57.6008	56/57.6100
56/57.6011	56/57.6102
56/57.6012	56/57.6800
56/57.6020	56.6131, 57.6131 and 56/57.6132
57.6027	57.6161
57.6029	57.6161
57.6030	57.6161
56/57.6040	56/57.6201
56/57.6041	56/57.6203
56/57.6042	56/57.6202
56/57.6043	56/57.6202
56/57.6044	56/57.6202
56/57.6045	56/57.6801
56/57.6046	Removed
56/57.6047	56/57.6202
56/57.6048	56/57.6200
56/57.6050	56/57.6202
56/57.6051	56/57.6203
56/57.6053	56/57.6202
56/57.6054	56.6204 and 57.6204
56/57.6056	56/57.6205
56/57.6057	56/57.6205
56/57.6065	56.6202
57.6075	56.6204 and 57.6204
57.6076	56.6204 and 57.6204
57.6077	56/57.6202
56/57.6090	56/57.6300
56/57.6091	56/57.6300
56/57.6092	56/57.6900
56/57.6093	56/57.6301
56/57.6094	56/57.6306
56/57.6096	56/57.6302
56/57.6097	56/57.6303
56/57.6098	56/57.6303
56/57.6099	56/57.6700
56/57.6100	56/57.6701
56/57.6101	56/57.6304
56/57.6102	56/57.6305
56/57.6103	56/57.6313
56/57.6104	56/57.6310
56/57.6105	56/57.6310
56/57.6106	56/57.6311
56/57.6107	Transferred to Subpart F, 56/57.7055
56/57.6108	Removed
56/57.6109	56/57.6500
56/57.6110	56/57.6502
56/57.6111	56/57.6502
56/57.6112	56/57.6502
56/57.6113	56/57.6502
56/57.6114	56/57.6502
56/57.6115	56/57.6501
56/57.6116	56/57.6502
56/57.6117	56/57.6502
56/57.6118	56/57.6502
56/57.6119	56/57.6400
56/57.6120	56/57.6401
56/57.6121	56.6407 and 57.6407
56/57.6122	56/57.6803
56/57.6123	56/57.6600
56/57.6124	56.6604 and 57.6604
56/57.6125	56/57.6403
56/57.6126	56/57.6402
56/57.6127	56/57.6404

DISTRIBUTION TABLE—Continued

Existing Number	Proposed Number
56/57.6128	56/57.6405
56/57.6129	56/57.6601
56/57.6130	56/57.6603
56/57.6131	56/57.6405
56/57.6132	Removed
56/57.6133	56/57.6406
56/57.6134	56/57.6700
56/57.6135	Transferred to Subpart F, 56/57.7056
56/57.6136	56/57.6901
56/57.6137	56/57.6901
56/57.6138	56/57.6902
56/57.6139	Removed
56/57.6140	Removed
57.6141	56/57.6312
56/57.6142	56/57.6307
56/57.6159	56/57.6133
56/57.6160	56/57.6306
56/57.6161	56/57.6903
56/57.6162	56/57.6605
56/57.6163	56/57.6501
56/57.6164	56/57.6501
56/57.6168	56/57.6311
57.6175	56/57.6306
57.6177	56/57.6311
57.6182	57.6306
56/57.6193	56/57.6602
56/57.6194	56/57.6602
56/57.6195	56/57.6602
56/57.6198	56/57.6602
57.6200	56/57.6202
57.6220	56/57.6960
56/57.6250	66/57.6904

III. Executive Order 12291 and the Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has prepared an initial analysis to identify potential costs and benefits associated with the proposed changes to its explosives standards for metal and nonmetal mines. The Agency has incorporated this analysis into the Initial Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. In this analysis, summarized below, MSHA has determined that the proposed rule would not result in major cost increases nor have an effect of $100,000,000 or more on the economy. Therefore, the rule is not within the criteria for a major rule and a Regulatory Impact Analysis is not required.

The Regulatory Flexibility Act requires that agencies evaluate and include, whereever possible, compliance alternatives that minimize an adverse impact on small business when developing regulatory proposals. This proposed rule would introduce alternative compliance methods to the existing regulations that would directly benefit small mining operations. In addition, the proposals would clarify compliance responsibilities and adopt performance-oriented standards when possible.

In the following summary of the Initial Regulatory Flexibility Analysis, MSHA has compared the costs associated with the proposed requirements to the costs associated with the existing requirements. MSHA has also compared the benefits associated with the proposed requirements to the benefits associated with the existing requirements. A copy of the full analysis is available upon request.

MSHA estimates that the total annual and annualized cost of complying with the existing rule is $1.2 million and of the proposed rule is $1.3 million. The total annual and annualized incremental cost for complying with the proposed rule is $148,000.

MSHA expects that the proposed rule will result in reduced risk to employee safety. Full compliance with the proposed standards may potentially prevent as many as 3 deaths and 24 injuries from occurring annually.

For purposes of the Regulatory Flexibility Act, MSHA has defined small business entities as mines with fewer than 20 employees. The proposed rule affects about 4,600 metal and nonmetal mining operations under MSHA jurisdiction that use explosive material, of which about 3,500 are small business entities. Almost 25,000 of 108,000 affected employees work at small mining operations.

The existing rule will result in annual and annualized costs of approximately $280,000 for small mines. The proposed rule will cost approximately $364,000 annually. Full compliance with the proposed rule may potentially prevent as many as 1.1 fewer deaths and 8.0 fewer injuries annually at small operations.

Little or no measurable economic effect is expected after this proposed rule is promulgated. The Agency specifically solicits comments and data on how the proposed regulations would impact on the mining industry.

IV. Paperwork Reduction Act

The proposed rule contains an information collection paperwork requirement in § 56/57.6502. This paperwork requirement has been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980. Comments on the proposed paperwork provision should be sent directly to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for MSHA.

The respondents in the paperwork provision would be mine operators. The following public hour estimate includes the time for reviewing instructions, gathering and maintaining the data needed, and completing the review of collection information. In each instance, the resultant information collection would be used by MSHA to assess compliance with the proposed requirement.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Patricia W. Silvey; director, Office of Standards, Regulations, and Variances; MSHA; Room 631; Ballston Tower # 3; 4015 Wilson Boulevard, Arlington, FA 22203 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects in 30 CFR Parts 56 and 57

Mine safety and health, Metal and nonmetal mining, Explosives.

David C. O'Neal,

Deputy Assistant Secretary for Mine Safety and Health.

Date: November 2, 1988.

It is proposed to amend Subparts E and F of Part 56, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations to read as follows:

PART 56—SAFETY AND HEALTH STANDARDS—SURFACE METAL AND NONMETAL MINES

§ 56.6107 and 56.6135 [Redesignated as §§ 56.7055 and 56.7056 and Revised]

1. Redesignate and revise §§ 56.6107 as 56.7055 and § 56.6135 as § 56.7056 in Subpart F—Drilling and Rotary Jet Piercing.

2. Revise Subpart E to consist of §§ 56.6000 through 56.6904, as set forth below.

* * * * *

Subpart E—Explosives

Sec.

Authority: 30 U.S.C. 811.

Subpart E—Explosives

§ 56.6000 Definitions.

The following definitions apply in this subpart.

Attended. Presence of an individual or continuous monitoring to prevent unauthorized entry or access.

Blast area. The area in which concussion (shock wave), flying material, or gases from an explosion may cause injury to persons. In determining the blast area, the following factors shall be considered:

(a) Geology or material to be blasted.

(b) Blast pattern.

(c) Burden, depth, diameter and angle of the holes.

(d) Blasting experience of the mine.

(e) Delay system, powder factor, and pounds per delay.

(f) Type and amount of explosive material.

(g) Type and amount of stemming.

Blast site. The area where explosive material is handled during loading, including the perimeter formed by the blast holes and 50 feet in all directions from loaded holes or holes to be loaded. The 50 foot requirement also applies in all directions along the full depth of the hole.

Blasting agent. Any substance classified as a blasting agent by the Department of Transportation in 49 CFR 173.114(a) (1986 compilation). This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Blasting switch. A switch used to connect a power source to a blasting circuit.

Detonating cord. A flexible cord containing a center core of high explosives and used to initiate other explosives.

Detonator. Any device containing a detonating charged used to initiate an explosive. These devices include blasting caps, electric or non-electric instantaneous or delay blasting caps, and delay connectors. The term "detonator" does not include detonating cord. Detonators may be either "Class A" detonators of "Class C" detonators, as classified by the Department of Transportation in 49 CFR Sections 173.53 and 173.100 (1986 compilation). This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Explosive. Any substance classified as an explosive by the Department of Transportation in 49 CFR Sections 173.53, 173.88 and 173.100 (1986 compilation). This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Explosive material. Explosives, blasting agents, and detonators.

Flash point. The minimum temperature at which sufficient vapor is released by a liquid to form a flammable vapor-air mixture near the surface of the liquid.

Igniter cord. A fuse that burns progressively along its length with an external flame at the zone of burning, used for lighting a series of safety fuses in a desired sequence.

Laminated partition. A partition composed of the following material and minimum nominal dimensions: ½ inch thick plywood,. ½ inch thick gypsum wallboard, ⅛ inch thick low carbon steel and ¼ inch thick plywood, bonded together in that order.

Loading. Placing explosive material either in a blast hole or against the material to be blased.

Misfire. The complete or partial failure of explosive material to detonate as planned. The term is also used to describe the explosive material itself that has failed to detonate.

Multipurpose dry-chemical fire extinguisher. An extinguisher having a rating of at least 2–A:10–B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Safety switch. A switch that provides shunt protection in blasting circuits between the blasting switch and the blast site.

Slurry. An explosive material containing substantial portions of water, such as a water gel or emulsion.

Storage

§ 56.6100 Separation of explosive material.

(a) Detonators shall not be stored in the same magazine with other explosive material; and

(b) Blasting agents shall be separated from explosives, safety fuse, and detonating cord to prevent contamination.

§ 56.6101 Areas around storage facilities.

(a) Areas surrounding storage facilities for explosive material shall be clear of rubbish, brush, dry grass, and trees for 25 feet in all directions. However, live trees 10 feet or taller need not be removed.

(b) Combustibles shall not be stored or allowed to accumulate within 50 feet of explosive material. Combustible liquids shall be stored in a manner that assures drainage will occur away from the explosive material storage facility in case of tank rupture.

§ 56.6102 Storage practices.

Explosive material shall be—

(a) Stored in a manner to facilitate use of oldest stocks first;

(b) Stored according to brand and grade in such a manner as to facilitate identification; and

(c) Stacked in a stable manner but not more than eight (8) feet high.

Explosives shall be stored in closed nonconductive containers except that nonelectric detonating devices may be stored on nonconductive racks.

§ 56.6130 Storage facilities.

(a) Detonators and explosives shall be stored in magazines;

(b) Packaged blasting agents shall be stored in a magazine or other facility which is ventilated, weather-resistant, and locked or attended. Facilities other than magazines used to store blasting agents shall contain only blasting agents;

(c) Bulk blasting agents shall be stored in weather-resistant bins or tanks which are locked, attended, or otherwise inaccessible to unauthorized entry; and

(d) Facilities, bins or tanks shall be posted with warning signs shall indicate the contents and are visible from each approach.

§ 56.6131 Location of storage facilities.

Storage facilities shall be—

(a) Located in accordance with Appendix I for Subpart E—MSHA Tables of Distances. However, where there is not sufficient area at the mine site to allow compliance with Appendix I, storage facilities shall be located so that the forces generated by a storage facility explosion will not create a hazard to occupants in mine buildings and will not damage dams or electric substations; and

(b) Detached structures located outside the blast area and a sufficient distance from powerlines so that the powerlines, if damaged, would not contact the magazines.

§ 56.6132 Magazine requirements.

Magazines shall be—

(a) Structurally sound;

(b) Noncombustible, or covered with fire-resistant material;

(c) Bullet resistant;

(d) Equipped with electrical bonding connections between all conductive portions of a metal magazine so the entire structure is at the same electrical potential. Suitable electrical bonding methods include welding, riveting or the use of securely tightened bolts where individual metal portions are joined. Conductive portions of nonmetal magazines shall be grounded;

(e) Made of nonsparking materials on the inside;

(f) Ventilated to control dampness and excessive heating within the magazine;

(g) Posted with warning signs that indicate the contents and are visible from each approach, so located that a bullet passing through any of the signs will not strike the magazine;

(h) Kept clean and dry inside;

(i) Unlighted or lighted by devices that are specifically designed for use in magazines and which do not create a fire or explosion hazard. All switches and outlets shall be located on the outside;

(j) Unheated, or heated only with devices that do not create a fire or explosion hazard;

(k) Locked when unattended; and

(l) Used exclusively for the storage of explosive materials except for essential nonsparking equipment used for the operation of the magazine.

§ 56.6133 Powder chests.

(a) Powder chests (day boxes) shall be—

(1) Structurally sound, weather-resistant, equiped with a lid or cover, and with only nonsparking material on the inside;

(2) Posted with warning signs that indicate the contents and are visible from each approach;

(3) Located out of the blast area once loading has been completed;

(4) Locked or attended when containing explosive material;

(5) Emptied at the end of each shift with the contents returned to a magazine or other storage facility, or attended.

(b) All detonators shall be kept in separate chests from explosives or blasting agents, except that Class C detonators may be placed in the same powder chest with explosives or blasting agents if separated by 4-inches of hardwood, laminated partition or equivalent.

Transportation

§ 56.6200 Delivery to storage or blast site areas.

Explosive material shall be transported without avoidable delay to the storage area or blast site.

§ 56.6201 Separation of explosive material.

(a) Class A detonators, and Class C detonators in quantities of more than 1000, shall not be transported in a vehicle or conveyance with explosives for blasting agents unless the detonators are maintained in the original packaging as shipped from the manufacturer and separated from the explosives or blasting agents by 4-inches of hardwood, laminated partition or equivalent.

(b) Class C detonators may be transported in quantities up to 1000 with explosives or blasting agents. However, such detonators shall be kept in closed containers and separated from the explosives or blasting agents by 4-inches of hardwood, laminated partition or equivalent. The hardwood or laminated partition shall be fastened to the vehicle or conveyance.

§ 56.6202 Vehicles.

(a) Vehicles containing explosive material shall be—

(1) Structurally sound and well-maintained;

(2) Equipped with sides and enclosures higher than the explosive material being transported or have the explosive material secured to a nonconductive pallet;

(3) Equipped with a cargo space which shall contain the explosive material. Passenger areas shall not be considered cargo space;

(4) Equipped with at least two multipurpose dry-chemical fire extinguishers or one such extinguisher and an automatic fire suppression system;

(5) Vented except when transporting in bulk;

(6) Posted with warning signs that indicate the contents and are visible from each approach;

(7) Occupied only by persons necessary for handling the explosive material;

(8) Attended, except when parked at the blast site and loading is in progress; and

(9) Secured while parked by having—

(i) The brakes set;

(ii) The wheels chocked if movement could occur; and

(iii) The engine shut off unless powering a device being used in the loading operation.

(b) Vehicles containing explosives shall have—

(1) No sparking material exposed in the cargo space; and

(2) Only properly secured nonsparking equipment shall be in the cargo space with the explosives.

(c) Vehicles used for dispensing bulk explosive material shall—

(1) Have no zinc or copper exposed in the cargo space; and

(2) Provide any enclosed screw-type conveyors with protection against internal pressure and frictional heat.

§ 56.6203 Locomotives.

Explosive material shall not be transported on a locomotive. When explosive material is hauled by trolley locomotive, covered, electrically insulated cars shall be used.

§ 56.6204 Hoists.

(a) Before explosive material is transported in hoist conveyances, the hoist operator shall be notified.

(b) Explosive material transported in hoist conveyances shall be placed within a structurally sound container. The manufacturer's container may be used if secured to a nonconductive pallet. When explosives are transported, they shall be secured so as not to contact any sparking material.

(c) No person shall be transported on a hoist conveyance or mantrip containing explosive materials.

§ 56.6205 Conveying explosives by hand.

Closed, nonconductive containers shall be used to carry explosives to and from blast sites. Separate containers shall be used for explosives and detonators.

§ 56.6300 Control of blasting operations.

(a) Only persons trained and experienced in the handling and use of explosive material shall direct blasting operations and related activities.

(b) Trainees and inexperienced persons shall work only in the immediate presence of persons trained and experienced in the handling and use of explosive material.

§ 56.6301 Blasthole obstruction check.

After blastholes are drilled, they shall be checked, and cleared of obstructions wherever possible, before loading.

§ 56.6302 Explosive material protection.

(a) Explosives and blasting agents shall be kept separated from detonators until loading begins; and

(b) Explosive material shall be protected from impact and temperatures in excess of 150 °F when taken to the blast site.

§ 56.6303 Initiation preparation.

(a) Primers shall be prepared with the detonator contained securely and completely within the explosive or contained securely and appropriately for its design in the tunnel or cap well;

(b) Primers shall be made up only at the time of use and as close to the blast site as conditions allow; and

(c) When using detonating cord to initiate another explosive, a connection shall be prepared with the detonating cord threaded through, attached securely to, or otherwise in contact with the explosive.

§ 56.6304 Primer protection.

(a) Tamping shall not be done directly on a primer.

(b) If cartridges of explosives or blasting agents exceed 4 inches in diameter, they shall not be dropped on the primer except where the blasthole is filled with or under water.

§ 56.6305 Unused explosive material.

Unused explosive material shall be moved to a protected location as soon as loading operations are completed.

§ 56.6306 Loading and blasting.

(a) Once explosive material has reached the blast site, vehicles and equipment shall not be driven over explosive materials or initiating systems or otherwise contact them in a manner which could create a hazard;

(b) Once loading begins, only activity directly related to the blasting operation shall be permitted within the blast site;

(c) Loading shall be continuous except for emergency situations, shift changes, and idle shifts not to exceed 16 hours;

(d) When loading is suspended, the blast site shall be attended;

(e) In electric blasting prior to hook-up of the power source and in nonelectric blasting prior to the attachment to an initiating device, all persons shall be removed from the blast area except persons in a blasting shelter or other location that protects from concussion (shock wave), flying material, or gases.

(f) Upon completion of loading and connecting or circuits, firing of blasts shall occur as soon as possible.

(g) Before firing a blast—

(1) Ample warning shall be given to allow all persons to be evacuated;

(2) Clear exit routes shall be provided for persons firing the round; and

(3) All access routes to the blast area shall be guarded or barricaded to prevent the passage of persons or vehicles.

(h) No work shall resume in the blast area until a postblast examination has been conducted.

§ 56.6307 Drill stem loading.

Explosive material shall not be loaded into blastholes with drill stem equipment or other devices that could be extracted while containing explosive material. The use of loading hose, collar sleeves, or collar pipes is permitted.

§ 56.6308 Initiation systems.

Initiation systems shall be used in accordance with the manufacturer's instructions.

§ 56.6309 Fuel oil requirements for ANFO.

Liquid hydrocarbon fuels with flash points lower than that of No. 2 diesel oil (125 ° F) shall not be used to prepare ammonium nitrate-fuel oil. Waste oil, including crankcase oil, shall not be used.

§ 56.6310 Misfire waiting period.

When a misfire is suspected, persons shall not enter the blast area—

(a) For 30 minutes if safety fuse and blasting caps are used; or

(b) For 15 minutes if any other type detonators are used.

§ 56.6311 Handling of misfires.

(a) Faces and muck piles shall be examined for misfires after each blasting operation.

(b) Only work necessary to remove a misfire and protect the safety of miners engaged in the removal shall be permitted in the affected area until the misfire is disposed of in a safe manner.

(c) When a misfire cannot be disposed of safely, each approach to the area affected by the misfire shall be posted with a warning sign at a conspicuous location to prohibit entry, and the condition shall be reported immediately to mine management.

(d) All misfires occurring during the shift shall be reported to mine management not later than the end of the shift.

§ 56.6312 Secondary blasting.

Secondary blasts fired at the same time in the same work area shall be initiated from one source.

§ 56.6313 Blast site security.

Areas in which loaded holes are awaiting firing shall be attended, or barricaded and posted, or flagged against unauthorized entry.

Electric Blasting

§ 56.6400 Compatability of electric detonators.

All electric detonators to be fired in a round shall be from the same manufacturer and shall have similar electrical firing characteristics.

§ 56.6401 Shunting.

Except during testing—

(a) Electric detonators shall be dept shunted until connected to the blasting line or wired into a blasting round;

(b) Wired rounds shall be kept shunted until connected to the blasting line; and

(c) Blasting lines shall be kept shunted until immediately before blasting.

§ 56.6402 Deenergized circuits near detonators.

Electrical distribution circuits within 50 feet of electric detonators at the blast site shall be deenergized. However, such circuits need not be denergized between 25 to 50 feet of the electric detonators if stray current tests indicate a maximum stray current of less than 0.05 amperes through a one-ohm resistor as measured at the location of the electric detonators.

§ 56.6403 Branch circuits.

If electric blasting includes the use of branch circuits, each branch shall be equipped with a safety switch or equivalent method to isolate the circuits to be used. At least one safety switch or equivalent method of protection shall be located outside the blast area and shall be in the open position until persons are withdrawn.

§ 56.6404 Positive separation of blasting circuits from power source.

Except when closed to fire the blast, blasting switches shall be locked in the open position. Lead wires shall not be connected to the blasting switch until the shot is ready to be fired.

§ 56.6405 Firing devices.

(a) Power sources shall be capable of delivering sufficient current to energize all electric detonators to be fired with the type of circuits used. The use of storage or dry cell batteries is not permitted as a power source.

(b) Blasting machines shall be tested, repaired, and maintained in accordance with manufacturer's instructions.

(c) Only the blaster shall have the key or other control to an electrical firing device.

§ 56.6406 Duration of current flow.

If any part of a blast is connected in parallel and is to be initiated from powerlines or lighting circuits, the time of current flow shall be limited to a maximum of 25 milliseconds. This can be accomplished by incorporating an arcing control device in the blasting circuit or by interrupting the circuit with an explosive device attached to one or both lead lines and initiated by a 25 millisecond delay electric detonator.

§ 56.6407 Circuit testing.

A blasting galvanometer or other instrument designed for testing blasting circuits shall be used to test the following:

(a) Continuity of each electric detonator in the blasthole prior to stemming or connection to the blasting line;

(b) Resistance of individual series or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line;

(c) Continuity of blasting lines prior to the connection of electric detonator series; and

(d) Total blasting circuit resistance prior to connection to the power source.

Nonelectric Blasting

§ 56.6500 Damaged initiating material.

Safety fuse, igniter cord, detonating cord, shock or gas tubing and similar material which is kinked, bent sharply, or damaged shall not be used. A visual check of the completed circuit shall be

made to assure that the components are properly aligned and connected.

§ 56.6501 Nonelectric systems.

(a) When blasting with any nonelectric system, double trunklines or loop systems shall be used, except:

(1) When blasting with safety fuse and caps;

(2) When performing secondary blasting; or

(3) When in-the-hole delays are of sufficient duration to preclude cutoffs from the movement of ground.

(b) When the nonelectric blasting system utilizes shock tube—

(1) All connections with other initiation devices shall be secured in a manner which provides for uninterrupted propagation;

(2) Factory made units shall be used as assembled and shall not be cut; and

(3) Connections between blastholes shall not be made until immediately prior to clearing the blast area and connecting to the source of energy for firing the blast.

(c) When the nonelectric blasting system utilizes detonating cord—

(1) The line of detonating cord extending out of a blasthole shall be cut from the supply spool immediately after the attached explosive is correctly positioned in the hole;

(2) In multiple row blasts, the trunkline layout shall be designed so that the detonation can reach each blasthole from at least two directions;

(3) All connections shall be tight and kept at right angles to the trunkline;

(4) Detonators shall be attached securely to the side of detonating cord and pointed in the direction in which detonation is to proceed; and

(5) Connections between blastholes shall not be made until immediately prior to clearing the blast area.

(d) When the nonelectric blasting system utilizes gas tube, continuity of the circuit shall be tested prior to blasting.

§ 56.6502 Safety fuse.

(a) The burning rate of each spool of safety fuse to be used shall be measured, posted in locations which will be conspicuous to safety fuse users, and brought to the attention of all persons involved with the blasting operation.

(b) When firing with safety fuse ignited individually using handheld lighters, the safety fuse shall be of lengths which provide at least the minimum burning time for a particular size round as specified in the following table.

SAFETY FUSE—MINIMUM BURNING TIME

Number of holes in a round	Minimum burning time
1	2 minutes.[1]
2 to 5	2 minutes 40 seconds.
6 to 10	3 minutes 20 seconds.
11 to 15	5 minutes.

[1] For example, persons shall use at least 36-inch length of 40-second-per-foot safety fuse or at least a 48-inch length of 30-second-per-foot safety fuse to allow sufficient time to evacuate the area.

(c) Where flyrock might damage exposed safety fuse, the blast shall be timed so that all safety fuse are burning within the blastholes before any blasthole detonates.

(d) Fuse shall be cut and capped in dry locations posted with "No Smoking" signs.

(e) Blasting caps shall be crimped to fuse only with implements designed for that purpose.

(f) Safety fuse shall be ignited only after the primer and the explosive material are securely in place.

(g) Safety fuse shall be ignited only with devices designed for that purpose. Carbide lights, liquefied petroleum gas torches and cigarette lighters shall not be used to light safety fuse.

(h) At least two persons shall be present when lighting safety fuse, and no one shall light more than 15 individual fuses. If more than 15 holes per person are to be fired, electric blasting systems, igniter cord and connectors, or other nonelectric blasting systems shall be used.

Extraneous Electricity

§ 56.6600 Loading practices.

If extraneous electricity is suspected in an area where electric detonators are used, loading shall be suspended until tests determine that stray current does not exceed 0.05 amperes through a 1-ohm resister when measured at the location of the electric detonators. If greater levels of extraneous electricity are found, the source shall be determined and no loading shall take place until the condition is corrected.

§ 56.6601 Grounding.

Electric blasting circuits, including powerline sources when used, shall not be grounded.

§ 56.6602 Static electricity dissipation during loading.

When explosive material is loaded pneumatically or dropped into a blasthole in a manner that could generate static electricity—

(a) An evaluation of the potential static electricity hazard shall be made and any hazard shall be eliminated before loading begins;

(b) The loading hose shall be of a semiconductive type, have a total of not more than 2-megohms of resistance over its entire length and not less than 1,000-ohm of resistance per foot;

(c) Wire-countered hoses shall not be used;

(d) All conductive parts of the loading equipment shall be bonded and grounded. Grounds shall not be made to other potential sources of extraneous electricity; and

(e) Plastic tubes shall not be used as hole liners if the hole contains an electric detonator.

§ 56.6603 Air gap.

At least a 15-foot air gap shall be provided between the blasting circuit and the electric power source.

§ 56.6604 Precautions during storms.

During the approach and progress of an electrical storm, all blasting operations shall be suspended and all persons withdrawn from the blast area or to a safe location.

§ 56.6605 Isolation of blasting circuits.

Lead wires and blasting lines shall not be strung across power conductors, pipelines and railroad tracks, and shall be protected from sources of stray or static electricity. Blasting circuits shall also be protected from any contact between firing lines and overhead powerlines which could result from the force of a blast.

Equipment/Tools

§ 56.6700 Nonsparking tools.

Only nonsparking tools shall be used to open containers of explosive material or to punch holes in explosive cartridges.

§ 56.6701 Tamping and loading pole requirements.

Tamping and loading poles shall be of wood or other nonconductive, nonsparking material. Couplings for poles shall be nonsparking.

Maintenance

§ 56.6800 Storage facilities.

When repair work which could produce a spark or flame is to be performed on a storage facility for explosive materials:

(a) The explosive material shall be moved to another facility, or moved at least 50 feet from the repair activity and monitored; and

(b) The facility shall be cleaned to prevent accidental detonation.

§ 56.6801 Vehicles.

Vehicles containing explosive material shall not be taken into a repair garage or shop.

§ 56.6802 Bulk delivery vehicles.

No welding or cutting shall be performed on bulk delivery vehicles until the vehicles have been washed down and all explosive material has been removed. Before welding or cutting on a hollow shaft, the shaft shall be thoroughly cleaned inside and out and vented with a minimum ½ inch diameter opening to allow for sufficient ventilation.

§ 56.6803 Blasting lines.

Permanent blasting lines shall be properly supported. All blasting lines shall be insulated and kept in good repair.

General Requirements

§ 56.6900 Damaged or deteriorated explosive material.

Damaged or deteriorated explosive material shall be disposed of in a safe manner in accordance with the instructions of the manufacturer. Delay detonators at least five years old are considered deteriorated explosive material.

§ 56.6901 Black powder.

(a) Black powder shall be used for blasting only when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

(b) Containers of black powder shall be—

(1) Nonsparking;

(2) Kept in a totally enclosed cargo space while being transported by a vehicle;

(3) Securely closed at all times, when—

(i) Within 50 feet of any magazine or open flame;

(ii) Within any building in which a fuel-fired or exposed-element electric heater is operating; or

(iii) In an area where electrical or incandescent-particle sparks could result in powder ignition; and

(4) Opened only when the powder is being transferred to a blasthole or another container and only in locations not listed in paragraph (b)(3) of this section.

(c) Black powder shall be transferred from containers only by pouring;

(d) Spills shall be cleaned up promptly with nonsparking equipment. Contaminated powder shall be put into a container of water to be disposed of promptly after the granules have disintegrated, or the spill area shall be promptly flushed with water until the granules have disintegrated completely;

(e) Misfires shall be disposed of by washing the stemming and powder charge from the blasthole, and removing and disposing of the initiator in accordance with the requirement for damaged explosives; and

(f) Holes shall not be reloaded for at least 12 hours when the blastholes have failed to break as planned.

§ 56.6902 Hot holes.

Where heat could cause premature detonation, explosive material shall not be loaded into drilled or sprung holes. Special precautions are required when blasting sulfide ores that react with explosive material or stemming in blastholes.

§ 56.6903 Burning explosive material.

If explosive material is suspected of burning at the blast site, all persons shall be evacuated from the endangered area and shall not return for at least one hour after the burning or suspected burning has stopped.

§ 56.6904 Smoking, open flame restriction.

(a) Smoking and use of open flames shall not be permitted within 50 feet of explosive material unless separated by permanent noncombustible barriers.

(b) This standard does not apply to devices designed to ignite safety fuse or to heating devices which do not create a fire or explosion hazard.

Appendix I for Subpart E—MSHA Tables of Distances

MSHA TABLE OF DISTANCES FOR SURFACE STORAGE OF EXPLOSIVE MATERIAL

Quantity of explosive material in pounds		Mine buildings, dams, and electrical substations		Distances in feet—Separation of magazines	
Over	Not over	Barricaded	Unbarricaded	Barricaded	Unbarricaded
2	5	70	140	6	12
5	10	90	180	8	16
10	20	110	220	10	20
20	30	125	250	11	22
30	40	140	280	12	24
40	50	150	300	14	28
50	75	170	340	15	30
75	100	190	380	16	32
100	125	200	400	18	36
125	150	215	430	19	38
150	200	235	470	21	42
200	250	255	510	23	46
250	300	270	540	24	48
300	400	295	590	27	54
400	500	320	640	29	58
500	600	340	680	31	62
600	700	355	710	32	64
700	800	375	750	33	66
800	900	390	780	35	70
900	1,000	400	800	36	72
1,000	1,200	425	850	39	78
1,200	1,400	450	900	41	82
1,400	1,600	470	940	43	86
1,600	1,800	490	980	44	88
1,800	2,000	505	1,010	45	90
2,000	2,500	545	1,090	49	98
2,500	3,000	580	1,160	52	104

MSHA Table of Distances for Surface Storage of Explosive Material—Continued

Quantity of explosive material in pounds Over—Not over	Mine buildings, dams, and electrical substations		Distances in feet—Separation of magazines	
	Barricaded	Unbarricaded	Barricaded	Unbarricaded
3,000—4,000	635	1,270	58	116
4,000—5,000	685	1,370	61	122
5,000—6,000	730	1,460	65	130
6,000—7,000	770	1,540	68	136
7,000—8,000	800	1,600	72	144
8,000—9,000	835	1,670	75	150
9,000—10,000	865	1,730	78	156
10,000—12,000	875	1,750	82	164
12,000—14,000	885	1,770	87	174
14,000—16,000	900	1,800	90	180
16,000—18,000	940	1,880	94	188
18,000—20,000	975	1,950	98	196
20,000—25,000	1,055	2,000	105	210
25,000—30,000	1,130	2,000	112	224
30,000—35,000	1,205	2,000	119	238
35,000—40,000	1,275	2,000	124	248
40,000—45,000	1,340	2,000	129	258
45,000—50,000	1,400	2,000	135	270
50,000—55,000	1,460	2,000	140	280
55,000—60,000	1,515	2,000	145	290
60,000—65,000	1,565	2,000	150	300
65,000—70,000	1,610	2,000	155	310
70,000—75,000	1,655	2,000	160	320
75,000—80,000	1,695	2,000	165	330
80,000—85,000	1,730	2,000	170	340
85,000—90,000	1,760	2,000	175	350
90,000—95,000	1,790	2,000	180	360
95,000—100,000	1,815	2,000	185	370
100,000—110,000	1,835	2,000	190	390
110,000—120,000	1,855	2,000	205	410
120,000—130,000	1,875	2,000	215	430
130,000—140,000	1,890	2,000	225	450
140,000—150,000	1,900	2,000	235	470
150,000—160,000	1,935	2,000	245	490
160,000—170,000	1,965	2,000	255	510
170,000—180,000	1,990	2,000	265	530
180,000—190,000	2,010	2,010	275	550
190,000—200,000	2,030	2,030	285	570
200,000—210,000	2,055	2,055	295	590
210,000—230,000	2,100	2,100	315	630
230,000—250,000	2,155	2,155	335	670
250,000—275,000	2,215	2,215	360	720
275,000—300,000	2,275	2,275	385	770

For purposes of this table, "barricaded" means that the storage facility containing explosive material is effectually screened by a natural or an artificial barricade consisting of a mound or revetted wall of earth of a minimum thickness of three feet.

For conversion to the metric system of measurement: 1 lb=0.454 kg; 1 ft=0.305 m; 1 in=2.54 cm.

This table is derived from the IME "American Table of Distances", May 1983 edition.

MSHA Table of Separation Distances

Pounds of explosives or blasting agents Over—Not over	Storage facilities—Separation distances when barricaded: Ammonium nitrate	Storage facilities—Separation distances when barricaded: Blasting agents	Minimum thickness of artificial barricades (in.)
Not over 100	3	11	12
100—300	4	14	12
300—600	5	18	12
600—1,000	6	22	12
1,000—1,600	7	25	12
1,6000—2,000	8	29	12
2,000—3,000	9	32	15
3,000—4,000	10	36	15
4,000—6,000	11	40	15
6,000—8,000	12	43	20
8,000—10,000	13	47	20
10,000—12,000	14	50	20
12,000—16,000	15	54	25
16,000—20,000	16	58	25
20,000—25,000	18	65	25
25,000—30,000	19	68	30
30,000—35,000	20	72	30

MSHA Table of Separation Distances—Continued

Pounds of explosives or blasting agents Over—Not over	Storage facilities—Separation distances when barricaded: Ammonium nitrate	Storage facilities—Separation distances when barricaded: Blasting agents	Minimum thickness of artificial barricades (in.)
35,000—40,000	21	76	30
40,000—45,000	22	79	35
45,000—50,000	23	83	35
50,000—55,000	24	86	35
55,000—60,000	25	90	35
60,000—70,000	26	94	40
70,000—80,000	28	101	40
80,000—90,000	30	108	40
90,000—100,000	32	115	40
100,000—120,000	34	122	50
120,000—140,000	37	133	50
140,000—160,000	40	144	50
160,000—180,000	44	158	50
180,000—200,000	48	173	50
200,000—220,000	52	187	60

MSHA Table of Separation Distances—Continued

Pounds of explosives or blasting agents Over—Not over	Storage facilities—Separation distances when barricaded: Ammonium nitrate	Storage facilities—Separation distances when barricaded: Blasting agents	Minimum thickness of artificial barricades (in.)
220,000—250,000	56	202	60
250,000—275,000	60	216	60
275,000—300,000	64	230	60

For purposes of this table, "barricaded" means that the storage facility is effectually screened by a natural barricade or an artificial barricade consisting of a mound or revetted wall of earth.

When the explosives or blasting agents are not barricaded, the distances shown in this table shall be multiplied by six.

For conversion to the metric system of measurement: 1 lb=0.454 kg; 1 ft=.305 m; 1 in=2.54 cm.

This table is derived from NFPA 492—1976, published in National Fire Protection Association (NFPA) document 495, 1985 edition.

Subpart F—Drilling and Rotary Jet Piercing

§ 56.7055 Intersecting holes.

Holes shall not be drilled where there is a danger of intersecting a misfired hole or a hole containing explosives, blasting agents or detonators.

§ 56.7056 Collaring in bootlegs.

Holes shall not be collared in bootlegs.

It is proposed to amend subparts E and F of Part 57, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations as follows:

PART 57—SAFETY AND HEALTH STANDARDS UNDERGROUND METAL AND NONMETAL MINES

§§ 57.6107 and 57.6135 [Redesignated as §§ 57.7055 and 57.7056 and revised]

1. Redesignate and revise §§ 57.6107 as 57.7055 and 57.6135 as 57.7056 in Subpart F—Drilling and Rotary Jet Piercing.

2. Revise Subpart E to consist of §§ 57.6000 through 57.6960, as set forth below.

Subpart E—Explosives

Authority: 30 U.S.C. 811.

Subpart E—Explosives

§ 57.6000 Definitions.

The following definitions apply in this subpart.

Attended. Presence of an individual or continuous monitoring to prevent unauthorized entry or access.

Blast area. The area in which concussion (shock wave), flying material, or gases from an explosion may cause injury to persons. In determining the blast area, the following factors shall be considered:

(a) Geology or material to be blasted.

(b) Blast pattern.

(c) Burden, depth, diameter and angle of the holes.

(d) Blasting experience of the mine.

(e) Delay system, powder factor, and pounds per delay.

(f) Type and amount of explosive material.

(g) Type and amount of stemming.

Blast site. The area where explosive material is handled during loading, including the perimeter formed by the blast holes and 50 feet in all directions from loaded holes or holes to be loaded. The 50 foot requirement also applies in all directions along the full depth of the hole. In underground mines, 15 feet of solid rib or pillar can be substituted for the 50 foot distance.

Blasting agent. Any substance classified as a blasting agent by the Department of Transportation in 49 CFR 173.114(a), (1986 Compilation). This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Blasting switch. A switch used to connect a power source to a blasting circuit.

Detonating cord. A flexible cord containing a center core of high explosives and used to initiate other explosives.

Detonator. Any device containing a detonating charge used to initiate an explosive. These devices include blasting caps, electric or non-electric instantaneous or delay blasting caps, and delay connectors. The term "detonator" does not include detonating cord. Detonators may be either "Class A" detonators or "Class C" detonators, as classified by the Department of Transportation in 49 CFR 173.53 and 173.100 (1986 Compilation). This document is available at any Metal and Nonmetal Safety and Health district office.

Explosive. Any substance classified as an explosive by the Department of Transportation in 49 CFR 173.53, 173.88 and 173.100 (1986 Compilation). This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Explosive material. Explosives, blasting agents, and detonators.

Flash point. The minimum temperature at which sufficient vapor is released by a liquid to form a flammable vapor-air mixture near the surface of the liquid.

Igniter cord. A fuse that burns progressively along its length with an external flame at the zone of burning, used for lighting a series of safety fuses in a desired sequence.

Laminated partition. A partition composed of the following material and

minimum nominal dimensions: ½ inch thick plywood, ½ inch thick gypsum wallboard, ⅛ inch thick low carbon steel and ¼ inch thick plywood, bonded together in that order.

Loading. Placing explosive material either in a blast hole or against the material to be blasted.

Misfire. The complete or partial failure of explosive material to detonate as planned. The term is also used to describe the explosive material itself that has failed to detonate.

Multipurpose dry-chemical fire extinguisher. An extinguisher having a rating of at least 2–A:10–B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Safety switch. A switch that provides shunt protection in blasting circuits between the blasting switch and the blast site.

Slurry. An explosive material containing substantial portions of water, such as a water gel or emulsion.

Storage—Surface and Underground

§ 57.6100 Separation of explosive material.

(a) Detonators shall not be stored in the same magazine with other explosive material; and

(b) Blasting agents shall be separated from explosives, safety fuse, and detonating cord to prevent contamination.

§ 57.6101 Areas around storage facilities.

(a) Areas surrounding storage facilities for explosive material shall be clear of rubbish, brush, dry grass, and trees for 25 feet in all directions. However, live trees 10 feet or taller need not be removed.

(b) Combustibles shall not be stored or allowed to accumulate within 50 feet of explosive material. Combustible liquids shall be stored in a manner that assures drainage will occur away from the explosive material storage facility in case of tank rupture.

§ 57.6102 Storage practices.

Explosive material shall be—

(a) Stored in a manner to facilitate use of oldest stocks first;

(b) Stored according to brand and grade in such a manner as to facilitate identification; and

(c) Stacked in a stable manner but not more than eight (8) feet high.

Explosives shall be stored in closed nonconductive containers except that nonelectric detonating devices may be stored on nonconductive racks.

Storage—Surface Only

§ 57.6130 Storage facilities.

(a) Detonators and explosives shall be stored in magazines;

(b) Packaged blasting agents shall be stored in a magazine or other facility which is ventilated, weather-resistant, and locked or attended. Facilities other than magazines used to store blasting agents shall contain only blasting agents;

(c) Bulk blasting agents shall be stored in weather-resistant bins or tanks which are locked, attended, or otherwise inaccessible to unauthorized entry; and

(d) Facilities, bins or tanks shall be posted with warning signs that indicate the contents and are visible from each approach.

§ 57.6131 Location of storage facilities.

Storage facilities shall be—

(a) Located in accordance with Appendix I for Subpart E—MSHA Tables of Distances. However, where there is not sufficient area at the mine site to allow compliance with Appendix I, storage facilities shall be located so that the forces generated by a storage facility explosion will not create a hazard to occupants in mine buildings and will not damage mine openings, mine ventilation fans, dams or electric substations; and

(b) Detached structures located outside the blast area and a sufficient distance from powerlines so that the powerlines, if damaged, would not contact the magazines.

§ 57.6132 Magazine requirements.

Magazines shall be—

(a) Structurally sound;

(b) Noncombustible, or covered with fire-resistant material;

(c) Bullet resistant;

(d) Equipped with electrical bonding connections between all conductive portions of a metal magazine so the entire structure is at the same electrical potential. Suitable electrical bonding methods include welding, riveting or the use of securely tightened bolts where individual metal portions are joined. Conductive portions of nonmetal magazines shall be grounded;

(e) Made of nonsparking materials on the inside;

(f) Ventilated to control dampness and excessive heating within the magazine;

(g) Posted with warning signs that indicate the contents and are visible from each approach, so located that a bullet passing through any of the signs will not strike the magazine;

(h) Kept clean and dry inside;

(i) Unlighted or lighted by devices that are specifically designed for use in magazines and which do not create a fire or explosion hazard. All switches and outlets shall be located on the outside;

(j) Unheated, or heated only with devices that do not create a fire or explosion hazard;

(k) Locked when unattended; and

(l) Used exclusively for the storage of explosive materials except for essential nonsparking equipment used for the operation of the magazine.

§ 57.6133 Powder chests.

(a) Powder chests (day boxes) shall be—

(1) Structurally sound, weather-resistant, equipped with a lid or cover, and with only nonsparking material on the inside;

(2) Posted with warning signs that indicate the contents and are visible from each approach;

(3) Located out of the blast area once loading has been completed;

(4) Locked or attended when containing explosive material; and

(5) Emptied at the end of each shift with the contents returned to a magazine or other storage facility, or attended.

(b) All detonators shall be kept in separate chests from explosives or blasting agents, except that Class C detonators may be placed in the same powder chest with explosives or blasting agents if separated by 4-inches of hardwood, laminated partition or equivalent.

Storage—Underground Only

§ 57.6160 Main facilities

(a) Main facilities used to store explosive material underground shall be located—

(1) In stable or supported ground;

(2) So that a fire or explosion in the storage facilities will not prevent escape from the mine, or cause detonation of the contents of another storage facility;

(3) Out of the line of blasts, and protected from vehicular traffic, except that accessing the facility;

(4) At least 25 feet from track and haulageways, except those necessary to provide access to the facility;

(5) At least 200 feet from work places or shafts;

(6) At least 50 feet from electric substations;

(7) At least 25 feet from trolley wires;

(8) At least 25 feet from detonator storage facilities; and

(b) Main facilities used to store explosive material underground shall be—

(1) Posted with warning signs that indicate the contents and are visible from each approach;

(2) Used exclusively for the storage of explosive material and associated nonsparking equipment;

(3) Clean and dry inside;

(4) Provided with unobstructed ventilation openings;

(5) Kept securely locked unless all access to the mine is either locked or attended;

(6) Unlighted, or lighted only with devices that do not create a fire or explosion hazard and which are specifically designed for use in magazines. All electrical switches and outlets shall be located outside the facility;

(7) Kept free of empty explosive material packaging; and

(8) Made of nonsparking material on the inside and equipped with doors or lids.

§ 57.6161 Auxiliary facilities.

(a) Auxiliary facilities used to store explosive material near work places shall be wooden box-type containers or facilities constructed to provide equivalent impact resistance and confinement.

(b) The auxiliary facilities shall be—

(1) Constructed of nonsparking material on the inside;

(2) Equipped with covers or doors;

(3) Clean and dry inside;

(4) Kept in repair;

(5) Located out of the line of blasts so they will not be subjected to damaging shock or flyrock;

(6) Identified with warning signs that indicate the contents and are visible from each approach;

(7) Located at least 15 feet from all haulageways and electrical equipment, or placed entirely within a recess in the rib used exclusively for explosive material;

(8) Filled with no more than a one-week supply of explosive material;

(9) Separated by at least 25 feet from other facilities used to store detonators; and

(10) Kept securely locked unless all access to the mine is either locked or attended.

Transportation—Surface and Underground

§ 57.6200 Delivery to storage or blast site areas.

Explosive material shall be transported without avoidable delay to the storage area or blast site.

§ 57.6201 Separation of explosive material.

(a) Class A detonators, and Class C detonators in quantities of more than 1000, shall not be transported in a vehicle or conveyance with explosives or blasting agents unless the detonators are maintained in the original packaging as shipped from the manufacturer and separated from the explosives or blasting agents by 4-inches of hardwood, laminated partition or equivalent.

(b) Class C detonators may be transported in quantities up to 1000 with explosives or blasting agents. However, such detonators shall be kept in closed containers and separated from the explosives or blasting agents by 4-inches of hardwood, laminated partition or equivalent. The hardwood or laminated partition shall be fastened to the vehicle or conveyance.

§ 57.6202 Vehicles.

(a) Vehicles containing explosive material shall be—

(1) Structurally sound and well-maintained;

(2) Equipped with sides and enclosures higher than the explosive material being transported or have the explosive material secured to a nonconductive pallet;

(3) Equipped with a cargo space which shall contain the explosive material. Passenger areas shall not be considered cargo space;

(4) Equipped with at least two multipurpose dry-chemical fire extinguishers or one such extinguisher and an automatic fire suppression system;

(5) Vented except when transporting in bulk;

(6) Posted with warning signs that indicate the contents and are visible from each approach;

(7) Occupied only by persons necessary for handling the explosive material;

(8) Attended, except when parked at the blast site and loading is in progress; and

(9) Secured while parked by having—

(i) The brakes set;

(ii) The wheels chocked if movement could occur; and

(iii) The engine shut off unless powering a device being used in the loading operation.

(b) Vehicles containing explosives shall have—

(1) No sparking material exposed in the cargo space; and

(2) Only properly secured nonsparking equipment in the cargo space with the explosives.

(c) Vehicles used for dispensing bulk explosive material shall—

(1) Have no zinc or copper exposed in the cargo space; and

(2) Provide any enclosed screw-type conveyors with protection against internal pressure and frictional heat.

§ 57.6203 Locomotives.

Explosive material shall not be transported on a locomotive. When explosive material is hauled by trolley locomotive, covered, electrically insulated care shall be used.

§ 57.6204 Hoists.

(a) Before explosive material is transported in hoist conveyances—

(1) The hoist operator shall be notified; and

(2) Hoisting in adjacent shaft compartments, except for empty conveyances or counterweights, shall be stopped until transportation of the explosive material is completed.

(b) Explosive material transported in hoist conveyances shall be placed within a structurally sound container. The manufacturer's container may be used if secured to a nonconductive pallet. When explosives are transported, they shall be secured so as not to contact any sparking material.

(c) No person shall be transported on a hoist conveyance or mantrip containing explosive materials.

§ 57.6205 Conveying explosives by hand.

Closed, nonconductive containers shall be used to carry explosives to and from blast sites. Separate containers shall be used for explosives and detonators.

Use—Surface And Underground

§ 57.6300 Control of blasting operations.

(a) Only persons trained and experienced in the handling and use of explosive material shall direct blasting operations and related activities.

(b) Trainees and inexperienced persons shall work only in the immediate presence of persons trained and experienced in the handling and use of explosive material.

§ 57.6301 Blasthole obstruction check.

After blastholes are drilled, they shall be checked, and cleared of obstructions wherever possible, before loading.

§57.6302 Explosive material protection.

(a) Explosives and blasting agents shall be kept separated from detonators until loading begins.

(b) Explosive material shall be protected from impact and temperatures

in excess of 150° F when taken to the blast site.

§ 57.6303 Initiation preparation.

(a) Primers shall be prepared with the detonator contained securely and completely within the explosive or contained securely and appropriately for its design in the tunnel or cup well;

(b) Primers shall be made only at the time of use and as close to the blast site as conditions allow; and

(c) When using detonating cord to initiate another explosive, a connection shall be prepared with the detonating cord threaded through, attached securely to, or otherwise in contact with the explosive.

§ 57.6304 Primer protection.

(a) Tamping shall not be done directly on a primer.

(b) If cartridges of explosives or blasting agents exceed 4 inches in diameter, they shall not be dropped on the primer except where the blasthole is filled with or under water.

§ 57.6305 Unused explosive material.

Unused explosive material shall be moved to a protected location as soon as loading operations are completed.

§ 57.6306 Loading and blasting.

(a) Once explosive material has reached the blast site, vehicles and equipment shall not be driven over explosive material or initiating systems or otherwise contact them in a manner which could create a hazard;

(b) Once loading begins, only activity directly related to the blasting operation shall be permitted within the blast site;

(c) Loading shall be continuous except for emergency situations, shift changes, and idle shifts not to exceed 16 hours;

(d) When loading is suspended, the blast site shall be attended;

(e) In electric blasting prior to hook-up of the power source and in nonelectric blasting prior to the attachment to an initiating device, all persons shall be removed from the blast area except persons in a blasting shelter or other location that protects from concussion (shock wave), flying material, or gases.

(f) Upon completion of loading and connecting of circuits, firing of blasts shall occur as soon as possible.

(g) Before firing a blast—

(1) Ample warning shall be given to allow all persons to be evacuated;

(2) Clear exit routes shall be provided for persons firing the round; and

(3) All access routes to the blast area shall be guarded or barricaded to prevent the passage of persons or vehicles.

(h) No work shall resume in the blast area until a post-blast examination has been conducted.

§ 57.6307 Drill stem loading.

Explosive material shall not be loaded into blastholes with drill stem equipment or other devices that could be extracted while containing explosive material. The use of loading hose, collar sleeves, or collar pipes is permitted.

§ 57.6308 Initiation systems.

Initiation systems shall be used in accordance with the manufacturer's instructions.

§ 57.6309 Fuel oil requirements for ANFO.

Liquid hydrocarbon fuels with flash points lower than that of No. 2 diesel oil (125 °F) shall not be used to prepare ammonium nitrate-fuel oil. Waste oil, including crankcase oil, shall not be used.

§ 57.6310 Misfire waiting period.

When a misfire is suspected, persons shall not enter the blast area—

(a) For 30 minutes if safety fuse and blasting caps are used; or

(b) For 15 minutes if any other type detonators are used.

§ 57.6311 Handling of misfires.

(a) Faces and muck piles shall be examined for misfires after each blasting operation.

(b) Only work necessary to remove a misfire and protect the safety of miners engaged in the removal shall be premitted in the affected area until the misfire is disposed of in a safe manner.

(c) When a misfire cannot be disposed of safely, each approach to the area affected by the misfire shall be posted with a warning sign at a conspicuous location to prohibit entry, and the condition shall be reported immediately to mine management.

(d) All misfires occurring during the shift shall be reported to mine management not later than the end of the shift.

§ 57.6312 Secondary blasting.

Secondary blasts fired at the same time in the same work area shall be initiated from one source.

§ 57.6313 Blast site security.

Areas in which loaded holes are awaiting firing shall be attended, or barricaded and posted, or flagged against unauthorized entry.

Electric Blasting—Surface and Underground

§ 57.6400 Compatibility of electric detonators.

All electric detonators to be fired in a round shall be from the same manufacturer and shall have similar electrical firing characteristics.

§ 57.6401 Shunting.

Except during testing—

(a) Electric detonators shall be kept shunted until connected to the blasting line or wired into a blasting round;

(b) Wired rounds shall be kept shunted until connected to the blasting line; and

(c) Blasting lines shall be kept shunted until immediately before blasting.

§ 57.6402 Deenergized circuits near detonators.

Electrical distribution circuits within 50 feet of electric detonators at the blast site shall be deenergized. However, such circuits need not be deenergized between 25 to 50 feet of the electric detonators if stray current tests indicate a maximum stray current of less than 0.05 amperes through a one-ohm resistor as measured at the location of the electric detonators.

§ 57.6403 Branch circuits.

If electric blasting includes the use of branch circuits, each branch shall be equipped with a safety switch or equivalent method to isolate the circuits to be used. At least one safety switch or equivalent method of protection shall be located outside the blast area and shall be in the open position until persons are withdrawn.

§ 57.6404 Positive separation of blasting circuits from power source.

Except when closed to fire the blast, blasting switches shall be locked in the open position. Lead wires shall not be connected to the blasting switch unitl the shot is ready to be fired.

§ 57.6405 Firing devices.

(a) Power sources shall be capable of delivering sufficient current to energize all electric detonators to be fired with the type of circuits used. The use of storage or dry cell batteries is not permitted as a power source.

(b) Blasting machines shall be tested, repaired, and maintained in accordance with manufacturer's instructions.

(c) Only the blaster shall have the key or other control to an electrical firing device.

§ 57.6406 Duration of current flow.

If any part of a blast is connected in parallel and is to be initiated from powerlines or lighting circuits, the time of current flow shall be limited to a maximum of 25 milliseconds. This can be accomplished by incorporating an arcing control device in the blasting circuit or by interrupting the circuit with an explosive device attached to one or both lead lines and initiated by a 25 millisecond delay electric detonator.

§ 57.6407 Circuit testing.

A blasting galvanometer or other instrument designed for testing blasting circuits shall be used to test the following:

(a) In surface operations—

(1) Continuity of each electric detonator in the blasthole prior to stemming or connection to the blasting line;

(2) Resistance of individual series or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line;

(3) Continuity of blasting lines prior to the connection of electric detonator series; and

(4) Total blasting circuit resistance prior to connection to the power source.

(b) In underground operations—

(1) Continuity of each electric detonator series; and

(2) Continuity of blasting lines prior to the connection of electric detonators.

Nonelectric Blasting—Surface and Underground

§ 57.6500 Damaged initiating material.

Safety fuse, igniter cord, detonating cord, shock or gas tubing and similar material which is kinked, bent sharply, or damaged shall not be used. A visual check of the completed circuit shall be made to assure that the components are properly aligned and connected.

§ 57.6501 Nonelectric systems.

(a) When blasting with any nonelectric system, double trucklines or loop systems shall be used, except:

(1) When blasting with safety fuse and caps;

(2) When performing secondary blasting; or

(3) When in-the-hole delays are of sufficient duration to preclude cutoffs from the movement of ground.

(b) When the nonelectric blasting system utilizes shock tube—

(1) All connections with other initiation devices shall be secured in a manner which provides for uninterrupted progagation;

(2) Factory made units shall be used as assembled and shall not be cut; and

(3) Connections between blastholes shall not be made until immediately prior to clearing the blast area and connection to the source for energy for firing the blast.

(c) When the nonelectric blasting system utilizes detonating cord—

(1) The line of detonating cord extending out of a blasthole shall be cut from the supply spool immediately after the attached explosive is correctly positioned in the hole;

(2) In multiple row blasts, the trunkline layout shall be designed so that the detonation can reach each blasthole from at least two directions;

(3) All connections shall be tight and kept at right angles to the trunkline;

(4) Detonators shall be attached securely to the side of the detonating cord and pointed in the direction in which detonation is to proceed; and

(5) Connections between blastholes shall not be made until immediately prior to clearing the blast area.

(d) When the nonelectric blasting system utilizes gas tube, continuity of the circuit shall be tested prior to blasting.

§ 57.6502 Safety fuse.

(a) The burning rate of each spool of safety fuse to be used shall be measured, posted in locations which will be conspicuous to safety fuse users, and brought to the attention of all persons involved with the blasting operation.

(b) When firing with safety fuse ignited individually using handheld lighters, the safety fuse shall be of lengths which provide at least the minimum burning time for a particular size round as specified in the following table.

Safety Fuse-Minimum Burning Time

Number of holes in a round	Minimum burning time
1	2 minutes.[1]
2–5	2 minutes 40 seconds.
6–10	3 minutes 20 seconds.
11–15	5 minutes.

[1] For example, persons shall use at least 36-inch length of 40-second-per-foot safety fuse or at least a 48-inch length of 30-second-per-foot safety fuse to allow sufficient time to evacuate the area.

(c) Where flyrock might damage exposed safety fuse, the blast shall be timed so that all safety fuses are burning within the blastholes before any blasthole detonates.

(d) Fuse shall be cut and capped in dry locations posted with "No Smoking" signs.

(e) Blasting caps shall be crimped to fuse only with implements designed for that purpose.

(f) Safety fuse shall be ignited only after the primer and the explosive material are securely in place.

(g) Safety fuse shall be ignited only with devices designed for that purpose. Carbide lights, liquefied petroleum gas torches and cigarette lighters shall not be used to light safety fuse.

(h) At least two persons shall be present when lighting safety fuse, and no one shall light more than 15 individual fuses. If more than 15 holes per person are to be fired, electric blasting systems, igniter cord and connectors, or other nonelectric blasting systems shall be used.

Extraneous Electricity—Surface and Underground

§ 57.6600 Loading practices.

If extraneous electricity is suspected in an area where electric detonators are used, loading shall be suspended until tests determine that stray current does not exceed 0.05 amperes through a 1-ohm resister when measured at the location of the electric detonators. If such levels of extraneous electricity are found, the source shall be determined and no loading shall take place until the condition is corrected.

§ 57.6601 Grounding.

Electric blasting circuits, including powerline sources when used, shall not be grounded.

§ 57.6602 Static electricity dissipation during loading.

When explosive material is loaded pneumatically or dropped into a blasthole in a manner that could generate static electricity—

(a) An evaluation of the potential static electricity hazard shall be made and any hazard shall be eliminated before loading begins;

(b) The loading hose shall be of a semiconductive type, have a total of not ore than 2-megohms of resistance over its entire length and not less than 1000-ohm of resistance per foot;

(c) Wire-countered hoses shall not be used;

(d) All conductive parts of the loading equipment shall be bonded and grounded. Grounds shall not be made to other potential sources of extraneous electricity; and

(e) Plastic tubes shall not be used as hole liners if the hole contains an electric detonator.

§ 57.6603 Air gap.

At least a 15-foot air gap shall be provided between the blasting circuit and the electric power source.

§ 57.6604 Precautions during storms.

During the approach and progress of an electrical storm—

(a) All surface blasting operations shall be suspended and all persons withdrawn from the blast area or to a safe location.

(b) All underground electrical blasting operations that are capable of being initiated by lightning shall be suspended and all persons withdrawn from the blast area or to a safe location.

§ 57.6605 Isolation of blasting circuits.

Lead wires and blasting lines shall not be strung across power conductors, pipelines and railroad tracks, and shall be protected from sources of stray or static electricity. Blasting circuits shall also be protected from any contact between firing lines and overhead powerlines which could result from the force of a blast.

Equipment Tools—Surface and Underground

§ 57.6700 Nonsparking tools.

Only nonsparking tools shall be used to open containers of explosive material or to punch holes in explosive cartridges.

§ 57.6701 Tamping and loading pole requirements.

Tamping and loading poles shall be of wood or other nonconductive, nonsparking material. Couplings for poles shall be nonsparking.

Maintenance—Surface and Underground

§ 57.6800 Storage facilities.

When repair work which could produce a spark or flame is to be performed on a storage facility for explosive materials:

(a) The explosive material shall be moved to another facility, or oved at least 50 feet from the repair activity and monitored; and

(b) The facility shall be cleaned to prevent accidental detonation.

§ 57.6801 Vehicles.

Vehicles containing explosive material shall not be taken into a repair garage or shop.

§ 57.6802 Bulk delivery vehicles.

No welding or cutting shall be performed on bulk delivery vehicles until the vehicles have been washed down and all explosive material has been removed. Before welding or cutting on a hollow shaft, the shaft shall be thoroughly cleaned inside and out and vented with a minimum 1/2 inch diameter opening to allow for sufficient ventilation.

§ 57.6803 Blasting lines.

Permanent blasting lines shall be properly supported. All blasting lines shall be insulated and kept in good repair.

General Requirements—Surface and Underground

§ 57.6900 Damaged or deteriorated explosive material.

Damaged or deteriorated explosive material shall be disposed of in a safe manner in accordance with the instructions of the manufacturer. Delay detonators at least five years old are considered deteriorated explosive material.

§ 57.6901 Black powder.

(a) Black powder shall be used for blasting only when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

(b) Containers of black powder shall be—

(1) Nonsparking;

(2) Kept in a totally enclosed cargo space while being transported by a vehicle;

(3) Securely closed at all times, when—

(i) Within 50 feet of any magazine or open flame;

(ii) Within any building in which a fuel-fired or exposed-element electric heater is operating; or

(iii) In an area where electrical or incandescent-particle sparks could result in powder ignition; and

(4) Opened only when the powder is being transferred to a blasthole or another container and only in locations not listed in paragraph (b)(3).

(c) Black powder shall be transferred from containers only by pouring;

(d) Spills shall be cleaned up promptly with nonsparking equipment. Contaminated powder shall be put into a container of water to be disposed of promptly after the granules have disintegrated, or the spill area shall be promptly flushed with water until the granules have disintegrated completely;

(e) Misfires shall be disposed of by washing the stemming and powder charge from the blasthole, and removing and disposing of the initiator in accordance with the requirement for damaged explosives; and

(f) Holes shall not be reloaded for at least 12 hours when the blastholes have failed to break as planned.

§ 57.6902 Hot holes.

Where heat could cause premature detonation, explosive material shall not be loaded into drilled or sprung holes. Special precautions are required when blasting sulfide ores that react with explosive material or stemming in blastholes.

§ 57.6903 Burning explosive material.

If explosive material is suspected of burning at the blast site, all persons shall be evacuated from the endangered area and shall not return for at least one hour after the burning or suspected buring has stopped.

§ 57.6904 Smoking, open flame restriction.

(a) Smoking and use of open flames shall not be permitted within 50 feet of explosive material except when separated by permanent noncombustible barriers.

(b) This standard does not apply to devices designed to ignite safety fuse or to heating devices which do not create a fire or explosion hazard.

General Requirements—Underground Only

§ 57.6960 Mixing of explosive material.

The mixing of ingredients to produce explosive material shall not be conducted underground unless the product of the mixing is an emulsion or slurry and the storage facilities and mixing equipment are designed, maintained and operated to minimize the possibility of heat build-up, fires and sparks. Storage facilities shall provide drainage away from the facilities for leaks and spills.

Appendix I For Subpart E—MSHA Tables of Distances

MSHA Table of Distances for Surface Storage of Explosive Material

Quantity of explosive material in pounds— Over—Not over	Mine buildings, underground mine openings, fans, dams, and electric substations		Distances in feet—Separation of magazines	
	Barricaded	Unbarricaded	Barricaded	Unbarricaded
2—5	70	140	6	12
5—10	90	180	8	16
10—20	110	220	10	20
20—30	125	250	11	22
30—40	140	280	12	24
40—50	150	300	14	28
50—75	170	340	15	30
75—100	190	380	16	32
100—125	200	400	18	36
125—150	215	430	19	38
150—200	235	470	21	42
200—250	255	510	23	46
250—300	270	540	24	48
300—400	295	590	27	54
400—500	320	640	29	58
500—600	340	680	31	62
600—700	355	710	32	64
700—800	375	750	33	66
800—900	390	780	35	70
900—1,000	400	800	36	72
1,000—1,200	425	850	39	78
1,200—1,400	450	900	41	82
1,400—1,600	470	940	43	86
1,600—1,800	490	980	44	88
1,800—2,000	505	1,010	45	90
2,000—2,500	545	1,090	49	98
2,500—3,000	580	1,160	52	104
3,000—4,000	635	1,270	58	116
4,000—5,000	685	1,370	61	122
5,000—6,000	730	1,460	65	130
6,000—7,000	770	1,540	68	136
7,000—8,000	800	1,600	72	144
8,000—9,000	835	1,670	75	150
9,000—10,000	865	1,730	78	156
10,000—12,000	875	1,750	82	164
12,000—14,000	885	1,770	87	174
14,000—16,000	900	1,800	90	180
16,000—18,000	940	1,880	94	188
18,000—20,000	975	1,950	98	196
20,000—25,000	1,055	2,000	105	210
25,000—30,000	1,130	2,000	112	224
30,000—35,000	1,205	2,000	119	238
35,000—40,000	1,275	2,000	124	248
40,000—45,000	1,340	2,000	129	258
45,000—50,000	1,400	2,000	135	270
50,000—55,000	1,460	2,000	140	280
55,000—60,000	1,515	2,000	145	290
60,000—65,000	1,565	2,000	150	300
65,000—70,000	1,610	2,000	155	310
70,000—75,000	1,655	2,000	160	320
75,000—80,000	1,695	2,000	165	330
80,000—85,000	1,730	2,000	170	340
85,000—90,000	1,760	2,000	175	350
90,000—95,000	1,790	2,000	180	360
95,000—100,000	1,815	2,000	185	370
100,000—110,000	1,835	2,000	190	390
110,000—120,000	1,855	2,000	205	410
120,000—130,000	1,875	2,000	215	430
130,000—140,000	1,890	2,000	225	450
140,000—150,000	1,900	2,000	235	470
150,000—160,000	1,935	2,000	245	490
160,000—170,000	1,965	2,000	255	510
170,000—180,000	1,990	2,000	265	530
180,000—190,000	2,010	2,010	275	550
190,000—200,000	2,030	2,030	285	570
200,000—210,000	2,055	2,055	295	590
210,000—230,000	2,100	2,100	315	630
230,000—250,000	2,155	2,155	335	670
250,000—275,000	2,215	2,215	360	720
275,000—300,000	2,275	2,275	385	770

For purposes of this table, "barricaded" means that the storage facility containing explosive material is effectually screened by a natural barricade or an artificial barricade consisting of a mound or revetted wall of earth of a minimum thickness of three feet.

For conversion to the metric system of measurement: 1 lb = 0.454 kg; 1 ft = 0.305 m; 1 in = 2.54 cm

This table is derived from the IME "American Table of Distances", May 1983 edition

MSHA TABLE OF SEPARATION DISTANCES

Pounds of explosives or blasting agents— Over—Not over	Storage facilities—separation distances when barricaded— Ammonium nitrate	Blasting agents	Minimum thickness of artificial barricades (in.)
Not over 100	3	11	12
100—300	4	14	12
300—600	5	18	12
600—1,000	6	22	12
1,000—1,600	7	25	12
1,600—2,000	8	29	12
2,000—3,000	9	32	15
3,000—4,000	10	36	15
4,000—6,000	11	40	15
6,000—8,000	12	43	20
8,000—10,000	13	47	20
10,000—12,000	14	50	20
12,000—16,000	15	54	25
16,000—20,000	16	58	25
20,000—25,000	18	65	25
25,000—30,000	19	68	30
30,000—35,000	20	72	30
35,000—40,000	21	76	30
40,000—45,000	22	79	35
45,000—50,000	23	83	35
50,000—55,000	24	86	35
55,000—60,000	25	90	35
60,000—70,000	26	94	40
70,000—80,000	28	101	40
80,000—90,000	30	108	40
90,000—100,000	32	115	40
100,000—120,000	34	122	50
120,000—140,000	37	133	50
140,000—160,000	40	144	50
160,000—180,000	44	158	50
180,000—200,000	48	173	50
200,000—220,000	52	187	60
220,000—250,000	56	202	60
250,000—275,000	60	216	60
275,000—300,000	64	230	60

For purposes of this table, "barricaded" means that the storage facility is effectually screened by a natural barricade or an artificial barricade consisting of a mound or revetted wall of earth.

When the explosives or blasting agents are not barricaded, the distances shown in the table shall be multiplied by six.

For conversion to the metric system of measurement: 1 lb = 0.454 kg; 1 ft = 0.305 m; 1 in = 2.54 cm

This table is derived from NFPA 492-1976, published in National Fire Protection Association (NFPA) document 495, 1985 edition

Subpart F—Drilling and Rotary Jet Piercing

§ 57.7055 Intersecting holes.

Holes shall not be drilled where there is a danger of intersecting a misfired hole or a hole containing explosives, blasting agents or detonators.

§ 57.7056 Collaring in bootlegs.

Holes shall not be collared in bootlegs.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL-3474-9]

Ocean Dumping; Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate a dredged material disposal site located offshore of the mouth of the Conquille River, Oregon, for the disposal of dredged material removed from the Coquille River navigation project and vicinity. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of this material. This proposed site designation is for an indefinite period of time, but the site is subject to continuing monitoring to insure that unacceptable, adverse environmental impacts do not occur.

DATE: Comments must be received on or before December 27, 1988.

ADDRESSES: Comments on this proposed rule should be sent to: John Malek, Ocean Dumping Coordinator, Region X, WD-138, 7200 Sixth Avenue, Seattle, WA 98101

The file supporting this proposed designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street Southwest, Washington, DC.

EPA Region X, 1200 Sixth Avenue, Seattle, Washington.

U.S. Army Corps of Engineers, North Pacific Division, U.S. Custom House, 220 Northwest Eighth, Portland, Oregon.

U.S. Army Corps of Engineers, Portland District, Multnomah Building, 319 Southwest Pine, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: John Malek, 206/442-1286.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator the authority to designate sites where ocean dumping may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping site will be designated by publication in Part 228. A list of "Approved and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*) and was last extended on May 4, 1984 (49 FR 19012). That list established an interim site in the vicinity of the Coquille River entrance. An adjusted site, located approximately 450 meters north-northwest of the interim site, has been selected for formal designation. This site designation is being published as proposed rulemaking in accordance with § 228.4(e) of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites for dredged material. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, (NEPA) requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into agency decision-making processes careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this. 39 FR 16186 (May 7, 1974).

EPA Region X has prepared a Draft EIS entitled "Coquille Ocean Dredged Material Disposal Site (ODMDS) Designation". As a separate but concurrent action, a notice of availability of the Draft EIS for public review and comment has been published in the **Federal Register**. It is planned that the public review periods for the Draft EIS and this proposed rule overlap. However, comments will be accepted on either the draft EIS or proposed rule until the end of the latest 45-day period. Comments will be responded to in the final EIS and rule. Anyone desiring a copy of the EIS may obtain one from the address given above.

The action discussed in the Draft EIS is designation for continuing use of an ocean disposal site for dredged material. The purpose of the designation is to provide an environmentally acceptable

location for ocean disposal of dredged material. The appropriateness of ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The Draft EIS provides information to support designation of an ocean dredged material disposal site (ODMDS) in the Pacific Ocean off the mouth of the Coquille River in the State of Oregon. The proposed ODMDS is an adjusted location lying north-northeast of an existing, interim-designated site. Site designation studies were conducted by the Portland District, Corps of Engineers, in consultation with EPA Region X. The adjusted ODMDS was judged to be a safer location with less potential for adverse environmental effects. No significant or long-term adverse environmental effects are predicted to result from the designation. The designated ODMDS would continue to receive sediments dredged by the Corps of Engineers to maintain the federally-authorized navigation project at Coquille River, Oregon, and other dredged materials authorized in accordance with section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA). Before any disposal may occur, a specific evaluation by the Corps must be made using EPA's ocean dumping criteria. EPA makes an independent evaluation of the proposal and has the right to disapprove the actual disposal.

The study and final designation process are being conducted in accordance with the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Proposed Site Description

The adjusted site proposed for designation is located approximately 1 nautical mile offshore of the Coquille River, Oregon, and occupies an area of approximately 150 acres (.17 square nautical miles). Water depths within the area average 18.3 meters. The coordinates of the site are as follows:

43°08'26"N. 124°26'44"W.
43°08'03"N. 124°26'08"W.
43°08'13"N. 124°27'00"W.
and 43°07'50"N. 124°26'23".
43°08'08"N. 124°26'34"W. (centroid)

If at any time disposal operations at the site cause unacceptable adverse impacts, further use of the site will be restricted or terminated.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, the use of that site will be terminated as soon as suitable alternate disposal sites can be designated. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists eleven specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The interim and adjusted sites, as discussed below under the eleven specific factors, are acceptable under the five general criteria, except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the Draft EIS, that a site off the Continental Shelf is not feasible and that no environmental benefits would be obtained by selecting such a site instead of that proposed in this action. The interim site also carries higher safety risks due to its proximity to partly submerged rocks and reefs which make it less preferable. Historical use at the existing interim site has not resulted in substantial adverse effects to living resources of the ocean or to other uses of the marine environment.

The characteristics of the existing interim site and the proposed adjusted site are reviewed below in terms of the eleven factors.

1. *Geographical position, depth of water, bottom topography, and distance from coast.* 40 CFR 228.6(a)(1). The interim site lies in 12 to 25 meters of water, 450 meters offshore from the entrance to the Coquille River. Corner coordinates are:

43°07'54"N. 124°26'27"W.
43°07'30"N. 124°27'04"W.
43°07'20"N. 124°26'40"W.
and 43°07'44"N. 124°27'17"W.

The interim site's center is on a 280 degree azimuth from the river mouth. In general, the interim site lies just north of the submerged extension of Coquille Point on bottom contours sloping at about 60 feet per mile.

The adjusted ODMDS lies 1,150 meters north-northeast of the interim ODMDS. Bottom contours and depths at the adjusted site are similar to those at the interim ODMDS. The adjusted site has the following corner and centroid coordinates:

43°08'26"N. 124°26'44"W.
43°08'03"N. 124°26'08"W.
43°08'13"N. 124°27'00"W.
and 43°07'50"N. 124°26'23"W.
43°08'08"N. 124°26'34"W. (centroid)

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult and juvenile phases.* 40 CFR 228.6(a)(2). Aquatic resources are described in detail in the Draft EIS, appendix A. The interim and adjusted sites are located in the nearshore area, and contain an abundance of aquatic life characteristic of nearshore, sandy, wave-influenced regions common along the coasts of the Pacific Northwest. The dominant commercially and recreationally important macroinvertebrate species in the area are shellfish, Dungeness crab, and squid. The Oregon Department of Fish and Wildlife (ODFW) has identified a squid spawning area that overlays the adjusted site. Numerous species of birds and marine mammals occur in the pelagic nearshore and shoreline habitats.

The nearshore area off the Coquille River supports a varity of pelagic and demersal fish species. Pelagic species include anadromous salmon, steelhead, cutthroat trout, striped bass, and shad which migrate through the estuary to upriver spawning areas. Although migratory species are present throughout the year, individual species are present only during certain times of the year. Demeral species present include English sole, sanddab, and starry flounder which spawn in the inshore coastal area in the summer. The species of invertebrates inhabiting the sandy portions of the area are the more motile, sand-dwelling forms which tolerate or require high sediment flux. Past and anticipated future disposal activities are not expected to significantly effect this community beyond the initial physical impacts of disposal. Abundances of some benthic organisms were higher at the adjusted site than at the interim site.

The interim site contains submerged rocky habitats and is immediately adjacent to neritic reefs. These are unusual features along the coast and support a variety of aquatic organisms, including bull kelp and its associated fish and invertebrate community. Pelagic species associated with the neritic reefs to the east and south of the estuary and jetties include both resident and non-resident species. The shallower reefs are dominated by black rockfish while the deeper reefs are dominated by lingcod, yellow rockfish and black rockfish. These rocky areas also have a very different benthic composition from the surrounding, sandy environments. Past disposal activity does not appear to

have significantly impacted this community.

The ocean waters contain many nearshore pelagic organisms which include zooplankton and meroplankton (fish, crab and other invertebrate larvae).

These organisms generally display seasonal changes in abundance and, since they are present over most of the coast, are not critical to overall coastal populations. Based on evidence from previous zooplankton and larval fish studies, no impact to organisms in the water column are predicted.

Portland District requested an endangered species listing from U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service NMFS). The brown pelican and the gray whale represent the only species which were listed. Based on previous biological assessments conducted along the Oregon coast regarding impacts to the brown pelican and the gray whale, no impact to either species is anticipated from the project. Letters of concurrence are included in the Draft EIS.

In summary, both the interim and adjusted ODMDS contain living resources that could be affected by disposal activities. Evaluation of past disposal activities do not indicate that unacceptable adverse effects to these resources have occurred. The interim site contains and is in close proximity to submerged rocks and reefs with rich and varied aquatic communities. There is no evidence that past disposal has seriously impacted these communities, and in the absence of any other disposal location the interim site should be considered an acceptable site. However, the adjusted site represents a potentially less impacting location and its use is considered environmentally preferable.

3. *Location in relation to beaches and other amenity areas.* 10 CFR 228.6(a)(3). The southeast corner of the proposed site is approximately 1,150 meters from the end of the north jetty. Both the interim and adjusted ODMDS are far enough removed that use of either site would not affect these amenities.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any.* 40 CFR 228.6(a)(4). The final designated ODMDS will receive dredged materials transported by either government or private contractor hopper dredges. The current dredges available for use at Coquille have hopper capacities from 800 to 4,000 cy. This would be the range in volumes of dredged material disposed of in any one dredging/disposal cycle. Upwards of 100,000 cy of material can be placed at the site in one dredging season by any combination of private and government dredgers. The dredges would be under power and moving while disposing. This allows the ship to maintain steerage.

The material dredged from the entrance channel consists of medium to fine grain marine sands. The dredged material shows a wider variation in median grain size and tends to be slightly coarser than the ambient sediments at the proposed disposal site. The differences are small enough that the sediments are considered compatible. The occasional gravel sized sediments occur in such small quantities and so infrequently as to cause no problems. All sediments destined for ocean disposal is subject to specific evaluation, including independent review by EPA. Past sediments discharged at the interim ODMDS have been clean sands that met the exclusion criteria (40 CFR 227.13(b)).

5. *Feasibility of surveillance and monitoring.* 40 CFR 228.6(a)(5). The proximity of the proposed disposal site to shore facilities creates an ideal situation for shore-based monitoring of disposal activities to ensure that material is actually discharged at the disposal site. There is routinely a Coast Guard vessel patrolling the entrance and nearshore areas so surveillance can also be accomplished by surface vessel.

Following formal designation of an ODMDS for Coquille, EPA and the Corps will develop a site management plan which will address the need for post-disposal monitoring. Several research groups are available in the area to perform any required field monitoring. The work could be performed from small surface research vessels at a reasonable cost.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction, and velocity.* 40 CFR 228.6(a)(6). The nearshore circulation at Coquille is influenced by the complex bathymetry and geology. Bottom currents have been observed by video camera and were recorded in April-May 1985. Currents were toward the north and offshore with velocity under .5 feet/second. The area at Coquille is exposed to normal wave action typical of this portion of the Pacific Ocean. The material dredged from the entrance channel at Coquille River is fine to medium sand. For the range of depths and grain sizes found at either of the Coquille ODMDS sites there is essentially constant mobility of bottom sediment due to wave action. This wave-induced motion is not responsible for net transport, but, once in motion, bottom sediments can be affected by other forces such as gravity or directional currents. Sediments discharged at either of the ODMDS would be expected to join the littoral movement and disperse gradually out of the site.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* 40 CFR 228.6(a)(7). The 10 year range of disposal has varied from 25,000 to 116,000 cy; on average, about 59,000 cy are annually discharged to the ocean. Future volumes are expected to be similar, although probably showing some increase as other disposal options are exhausted.

No biological information has been found to exist regarding the interim site prior to any disposal having occurred. It is expected that no significant impacts to the interim site have occurred beyond the yearly, site-specific effects of disposal. Beyond the observation that abundances of some benthic organisms are lower inside the interim ODMDS than other locations outside (which may be related to past disposal), there appear to be no apparent disposal effects.

No pre- or post-disposal studies on water or sediment quality have been performed. Sediments disposed in the past are identical to sediments collected in close proximity to the interim site and have met the exclusion criteria for testing.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shelfish culture, areas of special scientific importance, and other legitimate uses of the ocean.* 40 CFR 228.6(a)(8). The Draft EIS identified no legitimate uses of the ocean that would be interfered with as a result of designation of an ODMDS or its use. The following paragraphs summarize conclusions:

Commercial Fishing: Two commercial fisheries occur in the inshore area: salmon trawling and Dungeness crab fishing. The length of the salmon fishing season varies each year depending upon the established quota; however, it normally extends from July to September. During this period, the potential exists for conflicts between the dredge and fishing boats. The Coast Guard and ODFW indicated that this had never been a problem to their knowledge. The Dungeness crab season extends from December 1 to August 15 each year; however, most of the crabbing occurs prior to June and usually ends early because of the increase in soft shell crabs in the catch which are not marketable. As a result,

most crab fishing occurs outside of the normal dredging season and it is unlikely that a conflict would result. ODFW has identified a potential squid fishery in the area. No fishery exists at present, but stocks may be sufficient to support a fishery if a market develops. There are no commercial fish or shellfish aquaculture operations that would be impacted by use of the existing disposal site.

Recreational Fishing: Both private party and charterboat recreational fishing for salmon and rock and reef fish occurs in the inshore area off Coquille River. The sports salmon fishing season coincides with the commercial season and extends from summer until the quota for the area is reached. Most of the sports fishery occurs along the south reef because of navigational hazards on the north reef. Potential exists for recreational fishing boats to conflict with dredging and disposal operations; however, none has been reported to date. It is unlikely that any significant conflict will develop in the near future.

Offshore Mining Operations: No offshore mining presently occurs; although, considerations for offshore mining and oil/gas leases are in the development stages. The disposal site is not expected to interfere with such proposed operations, as most exploration programs are scheduled for the outer continental shelf.

Navigation: No conflicts with commercial navigation traffic have been recorded in the more than 60-year history of hopper dredging activity. The probable reason for this is the light commercial traffic through the Coquille navigation channel. Interviews with Coast Guard personnel also did not produce any instances of conflicts with either commercial or recreational traffic. Navigation hazards exist within the immediate area (e.g., rock outcroppings/reefs) which have been considered in positioning the adjusted ODMDS. Ships cannot navigate within the area south of the interim disposal site.

Scientific: There are no identified scientific study locations. However, there is a permanent wave buoy several miles offshore in 70 meter water depth. This buoy is part of a Pacific Coast wave data network operated by Scripps for the Corps of Engineers. Site designation or use of the site would not interfere with this operation.

Coastal Zone Management: In reviewing proposed ODMDS for consistency with the Coastal Zone Management (CZM) plan, they are evaluated against Oregon's Statewide Goal 19 (Ocean Resources). Local jurisdiction does not extend beyond the baseline for territorial seas and, therefore, local plans do not address offshore sites. Goal 19 requires that agencies determine the impact of proposed projects or actions. Paragraph 2.g of Goal 19 specifically addresses dredged material disposal. The requirements of the ocean dumping regulations are broad enough to meet the needs of Goal 19. Therefore, the designation of this site for ocean disposal of dredged material following the ocean dumping regulations would be consistent with Goal 19 and the State of Oregon's Coastal Zone Management Plan.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment of baseline surveys.* 40 CFR 228.6(a)(9). Water quality off the mouth of the Coquille River is considered excellent, typical of unpolluted seawater along the Pacific Northwest coast. No short or long term impacts of water quality are expected to be associated with disposal operations. The offshore area is a northwest Pacific Ocean mobile sand community bordered by a neritic reef system. Evaluation of the interim ODMDS in light of past disposal did not indicate any significant adverse effects to those communities. Designation and use of the adjusted ODMDS is not expected to have significant ecological consequences and provides additional distance from the reef community.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* 40 CFR 228.6(a)(10). It is highly unlikely that any nuisance species could be transported or attracted to the disposal site as result of dredging and disposal activities.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.* 40 CFR 228.6(a)(11). The neritic reefs off the Oregon coast comprise a unique ecological feature. They support a wide variety of invertebrates and fish species as well as bull kelp communities. These areas are partially sheltered from wave action and receive nutrients from both the ocean and the estuaries are usually highly productive. The adjusted site, which is proposed for designation, is farther removed from these reefs than the interim site.

Potential areas of shipwrecks were evaluated. Given the characteristics of the Coquille Bar, onshore current patterns, and hard sand bottom, and the fact that the ship channel over the bar has been actively maintained by dredging and removal of wrecks from the 1860's to present, it is unlikely that any wrecks have survived in the vicinity of the disposal site. The existing information and supplementary side scan sonar data was reviewed by the State Historic Preservation Office (SHPO). SHPO concurred with the Corps' findings of no cultural resources concerns. The SHPO letter of concurrence is included in the Draft EIS.

E. Proposed Action

The EIS concluded that the proposed site may be appropriately designated for use. The proposed site is compatible with the general criteria and specific factors used for site evaluation.

The designation of the Coquille River ODMDS as an EPA approved Ocean Dumping Site is being published as proposed rulemaking. Management of this site will be delegated to the Regional Administrator of EPA Region X.

It should be emphasized that, if an ocean dumping site is designated, such a designation does not constitute or imply EPA's approval of actual disposal of material at sea. Before ocean dumping or dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. EPA has the right to disapprove the actual dumping, it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this rule does not necessiate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not ncessitate preparation of a Regulatory Impact Analysis.

This Proposed Rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: November 1, 1988.

Robie G. Russell,

Regional Administrator for Region X.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. sections 1412 and 1418.

2. Section 228.12 is amended by removing from paragraph (a)(3) the entry "Coquille River Entrance", and adding paragraph (b)(71) to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(71) Coquille River—Region X.

Location: 43°08'26"N., 124°26'44"W.; 43°08'03"N., 124°26'08"W.; 43°08'13"N., 124°27'00"W.; and 43°07'50"N.,124° 26'23"W.

Size: 0.17 square nautical miles.

Depth: 18.3 meters (average).

Primary Use: Dredged mateial.

Period of Use: Continuing use.

Restrictions: Disposal shall be limited to dredged material from the Coquille Estuary and River and adjacent areas.

[FR Doc. 88-26056 Filed 11-9-88; 8:45 am]

BILLING CODE 6550-50-M

40 CFR Part 261

[SW-FRL-3474-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA is extending the comment period on a proposed delisting decision for Merck & Company, Inc., Elkton, Virginia, which appeared in the **Federal Register** on September 27, 1988 (53 FR 37601). After publication of the proposal it was noted that information had been inadvertently omitted from the regulatory docket associated with the proposed rule. This extension is provided to allow the public an adequate opportunity to review all information used to support the Agency's decision.

DATE: EPA will accept public comments on the previously proposed decision until December 14, 1988. This date reflects the period of time that the docket was deficient. Comments postmarked after the close of the extended comment period will be stamped "late".

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS-305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branches, PSPD/OSW (OS-343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. All comments must be identified at the top with docket number "F-88-MLEP-FFFFF".

The public docket where the information can be viewed for the proposed rule is located in the sub-basement of the 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, excluding Federal holidays. Call (202) 465-9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9436, or at (202) 382-3000. For technical information, contact Linda Cessar, Office of Solid Waste (OS-343), Environmental Protection Agency, 401 M Street SW.; Washington, DC 20460, (202) 475-9828.

SUPPLEMENTARY INFORMATION: On September 27, 1988, EPA proposed to exclude incinerator fly ash waste (EPA Hazardous Waste No. F002) generated by Merck and Company, Inc., (Merck) located in Elkton, Virginia, from the lists of hazardous wastes published in 40 CFR 261.31 and 261.32. See 53 FR 37601-37609. This proposal was made pursuant to 40 CFR 260.20 and 260.22. On October 25, 1988, the Virginia Department of Waste Management (VDWM) noted that a specific document necessary to understand the information used to support the Agency's decision on Merck's delisting petition was not in the regulatory docket (RCRA docket number "F-88-MLEP-FFFFF"). The missing document, which had been inadvertently omitted from the docket, was placed into the docket on October 26, 1988. The VDWM subsequently requested an extension of the public comment period for a period equal to the time the document was missing from the docket. The Agency is hereby granting that request.

The public comment period for the proposed rule was originally scheduled to end on November 14, 1988. Today's notice extends the public comment period for the proposed rule to allow the public an opportunity to review all information used to support the Agency's decision on Merck's delisting petition. The Agency will now accept public comments on the proposed rule until December 14, 1988.

Date: November 3, 1988.

Devereaux Barnes,

Acting Deputy Director, Office of Solid Waste.

[FR Doc. 88-26055 Filed 11-9-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-519, RM-6379]

Radio Broadcasting Services; Beaumont and Big Bear Lake, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Eastland Broadcasting Corp., provposing the allotment of Channel 269A to Beaumont, California, as its first FM service at coordinates 33-56-06 and 116-58-24. Additionally, petitioner requests the substitution of Channel 231A for Channel 269A, licensed to Mountain Broadcasting Company, Inc. for station KTOT(FM), Big Bear Lake, California, to accommodate its proposal. Proposed coordinates for Channel 231A are 34-16-10 and 116-50-46.

DATES: Comments must be filed on or before December 27, 1988, and reply comments on or before January 11, 1989.

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: William E. Kennard and Susan F. Hecks, Esqs., Verner, Liipfert, Bernhard, McPherson and Hand, 1660 L St., NW., Suite 1000, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy 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. 88-519, adopted September 30, 1988, and released November 4, 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 1.1204(b) 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.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–26110 Filed 11–9–88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88–518, RM–6123]

Television Broadcasting Services; Yreka City, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Junko K. and Bobby C. Shehan, sole applicants for UHF television Channel 27 at Medford, Oregon, proposing the substitution of UHF television Channel *35 for Channel *20 at Yreka City, California, to enable petitioners to specify a preferred antenna site to serve Medford, Oregon, and surrounding areas. Reference coordinates utilized for this proposal are 41–43–48 and 122–38–12.

Although the Commission has imposed a freeze on TV allotments, or applications therefor in specified metropolitan areas pending the outcome of an inquiry into the uses of advanced television systems (ATV) in broadcasting, this proposal is not affected thereby.

DATES: Comments must be filed on or before December 27, 1988, and reply comments on or before January 11, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, as follows: Junko K. and Bobby C. Shehan, 2032 Amsterdam Lane, Modesto, CA 95356.

FOR FURTHER INFORMATION CONTACT: Nancy 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. 88–518, adopted September 30, 1988, and released November 4, 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 1.1204(b) 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

Television broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–26111 Filed 11–9–88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88–236; RM–5725]

Radio Broadcasting Services; Carthage, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by Bryan Broadcasting, Inc., ("petitioner") requesting substitution of Channel 221B1 for Channel 221A at Carthage, Illinois, and modification of its Class A license for Station WCAZ(FM) to specify the higher powered channel. With this action, this proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–236, adopted September 30, 1988, and released November 4, 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.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–26112 Filed 11–9–88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88–509; FCC 88–325]

Enhanced Nighttime Operation for Class II–S and Class III–S AM Radio Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On its own motion the FCC has initiated this action inviting comments upon a proposal to amend the Commission's Rules to allow Class II–S and Class III–S AM radio broadcast stations to establish a separate nighttime antenna system for nighttime operations without having to meet the minimum power, city coverage or minimum operating schedule requirements that otherwise would apply to a change in nighttime operations.

DATES: Comments must be filed on or before December 27, 1988, and reply comments on or before January 11, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Diane L. Hofbauer, Policy and Rules Division, Mass Media Bureau, (202) 254–3394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* in MM Docket No. 88–509, adopted October 13, 1988, and released November 4, 1988.

The full text of this Commission action 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 *Notice of Proposed Rulemaking* may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

1. Having previously permitted unlimited-time operation for most daytime-only AM radio broadcast stations operating on the 14 foreign clear channels and on the U.S. clear and regional AM channels, the FCC proposes changes in its Rules to facilitate the enhancement of nighttime operations of Class II–S and Class III–S AM stations operating on these channels. Accordingly, the Commission proposes rule amendments that would permit these stations to establish a separate nightime antenna system without having to meet the minimum power, city coverage or minimum operating schedule requirements that would otherwise appy to such changes in nighttime operations.

2. In prior actions permitting daytime-only stations to oeprate at night, the power levels authorized were calculated based upon use of the same antenna system that the station used for daytime operations. Because such antenna systems were designed with only daytime protection in mind, in many caes they were not capable of providing effective nighttime service due to differing interference considerations. Many AM stations authorized to operate at night thus chose not to utilize the nighttime authorization. The rule changes proposed in this action would allow Class II–S and Class III–S stations to operate at night using a separate nighttime antenna system designed with nighttime interference protection requirements in mind.

3. Similarly, under prior actions authorizing such AM stations to operate at night, the Commission's Rules restricted power increases to only those stations able to achieve minimum power as set forth in the Commission's Rules. This action proposes to allow Class II–S and Class III–S stations' nighttime operations to utilize power levels below the 0.25 kW minimum power requirement.

4. Under the proposed rule amendments, no station will be permitted to cause any increased interference to full-time AM broadcast stations.

5. It is proposed that Class II–S and Class III–S stations providing enhanced nighttime service would continue to be exempt from the city coverage and minimum operating schedule requirements.

6. Finally, the *Notice of Proposed Rulemaking* seeks comment upon permitting voluntary power reductions for nighttime operations by full-time AM broadcast stations. Stations eligible for and engaging in such voluntary power reductions would be reclassified as Class II–S or III–S stations and would lose their right to interference protection that is accorded to stations with at least minimum facilities.

Comments

7. Pursuant to applicable procedures set forth in § 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before December 27, 1988, and reply comments on or before January 11, 1989. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Non-restricted rulemaking

8. This is a non-restricted notice and comment rulemaking proceeding. *See* § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Initial Regulatory Flexibility Analysis

9. With reference to the Regulatory Flexibility Act of 1980, 5 U.S.C. section 603, the proposed rule will, if promulgated, have a beneficial impact upon small AM broadcast stations that will be enabled to provide enhanced nighttime services to the public, and thereby compete more effectively with existing unlimited-time AM and FM stations. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete.

Notice of Proposed Rulemaking

10. The Secretary of the Commission is directed to send a copy of the *Notice of Proposed Rulemaking* in this proceeding to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Paperwork Reduction Act Statement

11. The proposed rule changes have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information, collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed upon the public.

12. Authority for the rule changes upon which comments are invited is contained in sections 4(i), 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 307.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 88–26108 Filed 11–9–88; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172 and 173

[Docket No. HM–142A; Notice No. 88–6]

RIN: 2137 AB56

Etiologic Agents

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) by revising the definition of "etiologic agent" and removing the 50 milliliter (1.69 fluid ounces) exception in 49 CFR 173.386. This action is necessary to protect health and safety and to ensure that all quantities of etiologic agents are subject to the same requirements for packaging and hazard communication. The intended effect is to enhance the safe transportation of etiologic agents through application of regulatory requirements for packaging and hazard communication.

DATE: Comments must be received on or before January 18, 1989.

ADDRESS: Address comments to Dockets Unit, Office of Hazardous Materials Transportation, (DHM–30), U.S. Department of Transportation,

Washington, DC 20590. Comments should be submitted, when possible, in five copies and should identify the docket number. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, except public holidays.

FOR FURTHER INFORMATION CONTACT: George Cushmac, (202) 366–4545, Technical Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, or Ann Boylan, (202) 366–4488, Standards Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street SW., Washingotn, DC 20590.

SUPPLEMENTARY INFORMATION: RSPA is proposing three amendments to the HMR with regard to etiologic agents. The first proposal concerns the definition of an etiologic agent and the list of etiologic agents referenced in the regulations of the Department of the Health and Human Services (DHHS) in 42 CFR 72.3. Objective criteria for the etiologic agent hazard class have not been developed yet and the list of etiologic agents is difficult to keep current. Therefore, RSPA proposes to broaden the definition of an etiologic agent in 49 CFR 173.386(a)(1). The proposed definition would include those agents listed in 42 CFR 72.3, and "any agent that poses a degree of hazard similar to those agents". This proposed action would require pathogens not currently listed in the DHHS regulations to be shipped as etiologic agents, based on the shipper's knowledge that the agents present a substantial risk to health and safety. This would include the acquired immune deficiency syndrome (AIDS) virus.

The proposed definition is broader in scope than the current definition in § 173.386 because it applies to more agents than are currently regulated. However, it is not as broad as the definition for infectious substances (Division 6.2) contained in the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) and international regulations based on the UN Recommendations such as the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These standards define infectious substances as "substances containing viable microorganisms or their toxins which are known, or suspected to cause disease in animals or humans". Under the international regulations, any quantity of an infectious substance is subject to requirements for shipping papers, marking, labeling and packaging. This definition of infectious substance includes substances which affect animals, and appears to include some relatively innocuous substances (e.g., cold viruses, yeasts and fungi which may cause minor illnesses). However, the scope of the definition is limited in this proposal to address the immediate problem.

A second proposal concerns the exception in 49 CFR 173.386(d)(3) under which cultures of etiologic agents of 50 ml or less total quantity in one outside package are not subject to any requirements of the HMR if the items as packaged do not contain a material otherwise subject to the HMR. After reconsideration of the health hazards presented by etiologic agents, it is RSPA's belief, based on safety considerations, that etiologic agents in any quantity present a substantial public health hazard and should be subject to regulation. Therefore, RSPA proposes to regulate all quantities of etiologic agents by deletion of the exception for quantities of 50 ml or less.

A third proposal concerns the per package quantity limits of etiologic agents aboard aircraft. This proposal would align the HMR with quantity limitations for infectious substances in the ICAO Technical Instructions.

The proposals in this notice are the initial step in a comprehensive review of the requirements pertaining to the transportation of etiologic agents. In future rulemaking action, RSPA plans to focus attention on various issues concerning etiologic agents, including packaging, the exceptions for biological products and diagnostic specimens addressed in § 173.386(d)(1) and (2), the present exclusion of etiologic agents which only affect animals, and adoption of hazard communication provisions and the definition for infectious substances in the UN Recommendations.

Administrative Notices

Executive Order 12291

The RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures [44 FR 11034]; (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A regulatory evaluation is available for review in the Docket.

Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Impact on Small Entities

Based on limited information concerning size and nature of entities likely to be affected by this final rule, I certify that the regulations proposed herein would not, if adopted, have a significant economic impact on a substantial number of small entities.

List of Subjects

49 CFR Parts 172

Hazardous materials transportation, Hazardous materials table.

49 CFR Part 173

Hazardous materials transportation, Definition, Packaging, Etiologic agents.

In consideration of the foregoing, 49 CFR Parts 172 and 173 would be amended as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS

1. The authority citation for Part 172 continues to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

§ 172.101 [Amended]

2. The Hazardous Materials Table would be amended by revising the entry for "Etiologic agent, n.o.s." to read as follows:

§ 172.101 Hazardous Materials Table

+ A W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
(1)	(2)	(3)	(3a)	(4)	(5a)	(5b)	(6a)	(6b)	(7a)	(7b)	(7c)
	REVISED Etiologic agent, n.o.s.	Etiologic agent.	NA2814	Etiologic agent.	173.386	173.387	50 ml or 50 g.	4 L or 4 Kg.	.....	.....	Not permitted except under specific conditions approved by the Department.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

3. The authority citation for Part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

4. In § 173.386, paragraph (d)(3) would be removed and paragraph (a)(1) would be revised to read as follows:

§ 173.386 Etiologic agents; definition and scope.

(a) * * *

(1) An "etiologic agent" means a viable microorganism, or its toxin, which causes or may cause human disease, and includes those agents listed in 42 CFR 72.3 of the regulations of the Department of Health and Human Services and any agent that poses a degree of hazard similar to those agents.

* * * * *

Issued in Washington, DC, on November 7, 1988.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 88-26132 Filed 11-9-88; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 88-13; Notice 1]
RIN 2127-AC72

Consumer Information; Vehicle Owner's Manuals

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice implements the granting of a petition by Motor Voters requesting that NHTSA require motor vehicle manufacturers to include information in their vehicle owners' manuals advising owners about the agency's defect authority and providing them with the telephone number for the agency's Auto Safety Hotline. To encourage owners to report defects and to facilitate their doing so, this notice proposal to amend the agency's Consumer Information Regulations to require manufacturers to provide the requested information.

DATES: Comment closing date: Comments on this notice must be received on or before December 27, 1988.

Proposed effective date: If adopted, these amendments would be effective 180 days after the publication of the final rule.

ADDRESS: All comments on this notice should refer to Docket No. 88-13; Notice 1 and be submitted to the following: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: James P. Talentino, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington DC 20590 (202-366-5212).

SUPPLEMENTARY INFORMATION: The National Traffic and Motor Vehicle Safety Act ("Safety Act") requires manufacturers of motor vehicles and motor vehicle equipment to recall and remedy vehicles and equipment that are determined by the manufacturer or NHTSA to contain either a safety-related defect or fail to comply with a Federal motor vehicle safety standard issued under the Safety Act. The agency's most important source of data used to identify defects which relate to motor vehicle safety is the consumer complaints made by persons calling the agency's Auto Safety Hotline. In 1987, the agency received 332,659 calls on the Hotline. In addition, NHTSA received 15,092 detailed Vehicle Owner Questionnaires that had been sent by the agency to some of the Hotline callers.

Motor Voters, a consumer organization interested in motor vehicle safety, has petitioned the agency to strengthen the Hotline as source of defect information by requiring the manufacturers of "passenger vehicles" to include information in the vehicle owners' manuals about NHTSA's and safety defects. Specifically, this information would advise owners about NHTSA safety defect authority and urge them to contact the agency about potential safety defects in their vehicles. To facilitate contacting the agency, the information would include the toll free telephone number of the Auto Safety Hotline and the agency's address. The information also would explain that while the agency has authority to investigate defects and order recall and remedy compaigns, it does not become directly involved in the dealings of a particular consumer with a manufacturer of a motor vehicle regarding a defect in that vehicle. These requirements would be added to the agency's Consumer Information Regulations in Part 575 of Title 49 of the Code of Federal Regulations.

NHTSA previously has granted this petition by letter to the petitioner and is issuing this notice to propose the requested requirements. A longstanding goal of the agency is to enhance the visibility of the Auto Safety Hotline and to improve the process of getting information from consumers about potential safety defects. NHTSA plans to publicize the Hotline through public service announcements in the media, through consumer and corporate safety offices, in telephone books, and through programs with State transportation agencies.

The inclusion of the requested information in the owners' manuals would be an important addition to NHTSA's public information campaign to increase consumer awareness of the

Hotline and the agency's efforts to strengthen its defect investigation activities. Including the Hotline number in owners' manuals would put the number in the hands of millions of motor vehicle purchasers at very little cost. Moreover, since owners typically refer to their manuals periodically throughout the ownership of their vehicles, especially when they are experiencing vehicle problems, the Hotline number printed in the manuals is likely to be seen many times. The inclusion of the Hotline number in manuals would be particularly important for new car owners since it would produce a higher volume of calls about potential safety defects earlier in a vehicle's life. This would be particularly important to detect defects in newly introduced models.

Accordingly, NHTSA proposes to amend § 575.6 of the Consumer Information Regulation to require motor vehicle manufacturers to include information about NHTSA's recall and remedy authority and about the Auto Safety Hotline in the owner's manual. The agency is proposing a requiremnt that is somewhat broader than the petition in that the proposal covers all new motor vehicles, not just "passenger vehicles." NHTSA took this step because facilitating owner reporting of potential safety defects is important for all types of motor vehicles. The agency also has made minor changes in the information requirements requested in the petition.

The proposed amendment would require manufacturers to state in the owener's manuals that consumers may contact NHTSA if they believes that their vehicle contains a safety defect. The amendment would also require that the manuals include the Hotline telephone number and agency address. Finally, the amendment would require that manufacturers include in the manuals a statment about the agency's authority to order a safety recall if it finds thaf a safety defect exists in a group of vehicles.

NHTSA has evaluated this proposal to require information about the agency in vehicle owners' manuals and has found that its effect would be to impose only minimal costs on a motor vehicle manufacturer, even though this regulation would require every new vehicle to contain this information in the owners' manual. The agency anticipates that a manufacturer would have to devote only one-half of a page in the owner's manual to this information. The cost of this measure is estimated to be only the additional costs related to the printing of one-half page since the manufacturers already print manuals. Therefore, the additional costs resulting from this rule not be more than a few cents per vehicle. Accordingly, the agency has determined that the proposal is not major within the meaning of Executive Order 12291 and is not significant for purposes of Department of Transportation policies and procedures for internal review because it would not have an impact on the economy in excess of $100 million. Similarly, it would not result in a major change in costs or prices for consumer's individual industries, government, or any geographic region. Nor would this action significantly affect competition. The agency has further determined that the costs associated with this proposal would not be large enough to warrant preparation of a regulatory evaluation under the procedures.

For the same reasons just discussed, I certify under the Regulatory Flexibility Act this rule will not have a significant impact on a substantial number of small entities within the meaning of the statute.

Further, this rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it has no Federalism implication that warrants preparation of Federalism report.

Finally, the agency has concluded that the environmental consequences of the proposed change would be of such limited scope that they clearly would not have a significant effect on the quality of the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 575

Consumer protection, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, it is proposed that 49 CFR 575.6 be amended as follows:

PART 575—CONSUMER INFORMATION REGULATIONS

1. The authority citation for Part 575 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, and 1423; delegation of authority at 49 CFR 1.50.

§ 575.6 [Amended]

2. Section 575.6(a) would be amended by redesignating the existing language as paragraph 6(a)(1), and adding a new paragraph (a)(2), to read as follows:

§ 575.6 Requirements.

(a) * * *

(2) At the time a motor vehicle is delivered to the first purchaser for purposes other than resale, the manufacturer of that vehicle shall provide to the purchaser, in writing and in the English language, the following statement in the owner's manual:

If you believe that a vehicle or item of motor vehicle equipment (such as tires, lamps, etc.) has a potential safety-related defect, you may notify the National Highway Traffic Safety Administration (NHTSA). You

may either call toll free at 800–424–9393 (or 366–0123 in Washington, DC) or write Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. NHTSA investigates alleged safety-related defects and may order a recall and remedy campaign if it finds that a safety defect exists in a group of vehicles and the manufacturer does not voluntarily conduct a recall and remedy campaign. However, NHTSA does not become directly involved in the dealings between a particular consumer and vehicle manufacturer regarding a defect in the consumer's vehicle.

Issued on: November 7, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 88–26079 Filed 11–9–88; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 53, No. 218
Thursday, November 10, 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 AGRICULTURE

Agricultural Marketing Service

[No. FV-88-211]

Establishment of Perishable Agricultural Commodities Act Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Pub. L. 100-414 requires the establishment of a Perishable Agricultural Commodities Act (PACA) Industry Advisory Committee to review the PACA program and confer with Department officials regarding program enhancement. This document seeks nominations of individuals to be considered for selection as Committee members.

DATE: Written nominations must be received on or before December 12, 1988.

ADDRESS: Nominations should be sent to Mr. John D. Flanagan, Chief, PACA Branch, Rm. 2095 S., Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Washington, DC. 20090-6456.

FOR FURTHER INFORMATION CONTACT: John D. Flanagan, (202) 447-2272.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92-463) notice is hereby given that Pub. L. 100-414 requires that the Secretary of Agriculture establish a Perishable Agricultural Commodities Act Industry Advisory Committee. The purpose of the Committee is to review the PACA program, to recommend ways of improving its efficiency, and to ensure equitable treatment in its application among the various segments of the fruit and vegetable industry. On the basis of its review, the Committee shall develop recommendations for consideration by Congress and the Secretary of Agriculture with respect to future operation of the PACA program.

The Secretary of Agriculture has determined that the work of the Committee is in the public interest in view of the duties conferred upon the Department of Agriculture (USDA) by law.

The Director of the Fruit and Vegetable Division, Agricultural Marketing Service (AMS), will be chairperson of the Committee. The Chief of the PACA Branch will serve as its executive secretary. Staff support essential to the execution of the Committee's responsibilities shall be provided by AMS.

Committee members shall be appointed by the Secretary of Agriculture and shall serve for the entire term of the Committee. The Committee shall be comprised of twenty (20) members representing balanced interests of the fruit and vegetable industry. Membership shall include but not be limited to growers, shippers, brokers, receivers, wholesalers, retailers, and processors. One alternate member for every two regular Committee members shall also be appointed.

Industry members receiving nominations will be contacted and supplied with biographical forms. The biographical information must be completed and returned to the USDA within five (5) working days of its receipt, to expedite the security clearance process that is required before selection by the Secretary of Agriculture. Equal opportunity practices will be followed in all appointments to the Committee in accordance with USDA policies.

The PACA Industry Advisory Committee is charged with providing an interim report to the Secretary of Agriculture, the House Committee on Agriculture, and the Senate Committee on Agriculture, Nutrition and Forestry no later than September 30, 1989. A final report including the results of the Committee's review and its recommendations based on these results, shall be submitted no later than May 1, 1990. The Committee will cease to exist when its final report is submitted, but no later than May 1, 1990.

Done at Washington, DC this 4th day of November, 1988.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 88-25946 Filed 11-9-88; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Intention to Withdraw Draft Environmental Impact Statement; Highway 88 Future Recreation Use Determination

AGENCY: Forest Service, USDA.

ACTION: Withdrawal of Draft Environmental Impact Statement.

SUMMARY: The Forest Service hereby gives notice that the Draft Environmental Impact Statement (DEIS) for the Highway 88 Future Recreation Use Determination Study (FRUD) is withdrawn.

DATE: November 15, 1988.

ADDRESS: Submit written comments and suggestions concerning the withdrawal of the DEIS to Jerald N. Hutchins, Eldorado National Forest Supervisor, 100 Forni Road, Placerville, CA 95667.

FOR FURTHER INFORMATION CONTACT: Questions about the withdrawal and proposed action should be directed to Jerald N. Hutchins, Forest Supervisor, 100 Forni Road, Placerville, CA 95667, phone 916-622-5061.

SUPPLEMENTARY INFORMATION: On November 7, 1984, a Notice of Intent to prepare an Environmental Impact Statement was published in the **Federal Register** (vol. 49, page 44513). Internal and public scoping meetings were held in November and December 1984. Studies were conducted during the next 2 years and the DEIS was made available to the public on January 21, 1987. The public comment period, originally scheduled to end on April 29, 1987 was extended to September 15, 1987 to allow the public a full summer to review the DEIS. The preferred alternative called for the recovery of 82 recreation residences located on or near the lake shores of Silver Lake and Kirkwood Lake to facilitate public lakeshore access and to provide space for public campground development.

The comment period for this DEIS coincided with the comment period for the proposed new Forest Service policy for administration of recreation residence permits. Many people apparently confused the **Federal Register** notice on Recreation Residence Policy with the **Federal Register** notice on the DEIS. The DEIS was temporarily

withdrawn on April 9, 1987, because the policy on future use determinations was one of the major items being considered in the proposed recreation residence policy and because of the apparent confusion the DEIS was creating for permittees. It was determined that any future action or study of the recreation residences in the Highway 88 area would be consistent with direction contained in this final policy.

The new Recreation Residence Policy was implemented on August 31, 1988. Although the new policy does not preclude future use studies of the type prepared for Highway 88, the current DEIS is being withdrawn for the following reasons.

1. Comments received during the 10-week comment period, were overwhelmingly opposed to the DEIS preferred alternative and its rationale. Comparatively little support for the preferred was received, indicating an apparent lack of strong constituency for the recovery proposal.

2. The East Silver Lake and South Silver Lake Associations have withdrawn their proposals for land exchanges which would have converted to private ownership the lakeshore recreation lands now occupied by the two tracts.

3. Permittees in the lakeshore tracts have expressed a willingness to mitigate many of the situations now existing that restrict public access. For example: cooperation in construction and maintenance of lake side trails and public use areas; installation of signing to encourage public use; acceptance by associations of responsibility for docks, which would also be made available to the public.

4. The staff time and costs involved in continuance of the study at this time do not appear justified, considering the probable outcome.

The Forest Supervisor will offer 20 year term permits to all recreation residence permittees encompassed by the Highway 88 Study (with the exception of those whose permits are on tenure). The organization camp and resort permits will be allowed to run to the end of their current terms, and renewals will be considered on a case-by-case basis.

Date: November 2, 1988.

Jerald N. Hutchins,

Forest Supervisor.

[FR Doc. 88-26042 Filed 11-9-88; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting; Tennessee Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 2:30 p.m. and adjourn at 5:00 p.m., on December 7, 1988, at the Stouffer-Nashville Hotel, 611 Commerce Street, Nashville, Tennessee. The purpose of the meeting will be to discuss current civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, James F. Blumstein, or William F. Muldrow, Acting Director of the Centeral Regional Division (816) 426-5253, (TDD 816/426-5009). Hearing impaired persons who will atend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working dats before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 4, 1988.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 88-26089 Filed 11-9-88; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Felipe Beltran from an Objection by the Puerto Rico Planning Board

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of dismissal.

On November 19, 1987, Felipe Beltran (Appellant) filed with the Department of Commerce (Department) a notice of appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3)(A), and implementing regulations, 15 CFR Part 930, Subpart H. The appeal arose from an objection by the Puerto Rico Planning Board (PRPB) to the Appellant's certification that his proposed construction of a bulkhead and a boat ramp on the Bayamon River in Catano, Puerto Rico would be consistent with Puerto Rico's coastal management program.

By a later dated June 30, 1988, the PRPB informed the Department that the Appellant has revised the project such that the PRPB now concurs in its consistency with Puerto Rico's coastal management program. Accordingly, the Department dismissed the appeal on September 27, 1988 for good cause pursuant to 15 CFR 930.128. That dismissal bars the Appellant from filing another appeal from the PRPB's objection to the aforementioned activities.

FOR FURTHER INFORMATION CONTACT: Sydney Anne Minnerly, Attorney-Advisory, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235, (202) 673-5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Date: November 2, 1988.

William E. Evans,

Under Secretary for Oceans and Atmosphere.

[FR Doc. 88-25988 Filed 11-9-88; 8:45 am]

BILLING CODE 3510-08-M

Coastal Zone Management; Federal Consistency Appeal by James E. Daspit from an Objection by the Mississippi Department of Wildlife Conservation

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of dismissal.

On January 8, 1988, James E. Daspit (Appellant) filed with the Department of Commerce (Department) a notice of appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3)(A), and implementing regulations, 15 CFR Part 930, Subpart H. The appeal arose from an objection by the Mississippi Department of Wildlife Conservation (State) to the Appellant's certification that his proposed dredging and filling of wetlands to construct an indented boat slip, a bulkhead, and a road in Hancock County, Mississippi would be consistent with the State's coastal management program.

To perfect the appeal, the Appellant was required to file, pursuant to 15 CFR 930.125, information and data addressing the criteria relevant to the Department's decision whether to override the State's objection to the

Appellant's proposed project. Because of the Appellant's failure to file responsive materials, the Department dismissed the appeal on October 5, 1988 for good cause pursuant to 15 CFR 930.128(d). That dismissal bars the Appellant from filing another appeal from the State's objection to the aforementioned activities.

FOR FURTHER INFORMATION CONTACT: Sydney Anne Minnerly, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235, (202) 673–5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Date: November 2, 1988.

William E. Evans,

Under Secretary for Oceans and Atmosphere.

[FR Doc. 88–25987 Filed 11–9–88; 8:45 am]

BILLING CODE 3510–08–M

National Technical Information Service

Intent To Grant Exclusive Patent License to Research Biochemicals, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Research Biochemicals, Inc., having a place of business at Natick, MA, in the United States to manufacture, use, and sell products embodied in the invention entitled "Metaphit," U.S. Patent 4,598,153, for non-human use. The patent rights in this invention have been assigned to the United States of America, as represented by the Department of Commerce.

The proposed license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the subject patent may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, Department of Commerce.

[FR Doc. 88–26043 Filed 11–9–88; 8:45 am]

BILLING CODE 3510–04–M

Intent To Grant Exclusive Patent License to Xoma Corp.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Xoma Corporation, having a place of business at Berkeley, CA, an exclusive license in the United States under the rights of the United States of America to manufacture, use, and sell products and use methods embodying the invention entitles "Cloning cDNA's for the Human Interleukin—2 Receptor," United States Patent Application Seriel Number 6–634,380. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 703/487–4650 or by writing to NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, Department of Commerce.

[FR Doc. 88–26044 Filed 11–9–88; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

Action: Notice. The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Certificate of Physician, AF Form 3118, OMB Control Number 0701–0091.

Type of request: Reinstatement.

Average burden hours/minutes per Response: 12 minutes.

Frequency of Response: On occasion.

Number of Respondents: 240.

Annual Burden Hours: 48.

Annual Responses: 240.

Needs and Uses: Medical doctors fill out AF Form 3118 to certify to the mental or physical incapacity of dependent children of deceased military retirees. The physicians' certification is necessary to continue annuities to dependent children who are over age 18 but incapable of self-support. The Air Force uses the information to verify the dependents continued eligibility for annuity pay.

Affected Public: Individiauls.

Frequency: Continuing.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. Timothy Sprehe. Written comments and recommendations on the proposed information collection should be sent to Dr. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Ms. Pearl Rascoe-Harrison. A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

November 4, 1988.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88–26081 Filed 11–9–88; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Scientific Advisory Board; Meeting

November 7, 1988.

The USAF Scientific Advisory Board Ad Hoc Committee on Progress on High Power Microwave will meet on November 28, 1988 from 8:00 a.m. to 5:00 p.m. at the Pentagon, Washington, DC 20330–5430.

The purpose of this meeting is to examine the appropriateness, extent, and character of the Air Force's involvement in research and development programs into potential applications of high power microwaves.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer

[FR Doc. 88–26003 Filed 11–9–88; 8:45am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting of the Ad Hoc Committee on Aircraft Infrastructure—Subsystem and Component Reliability Improvement Research and Development Needs

November 7, 1988.

The USAF Scientific Advisory Board Ad Hoc Committee on Aircraft Infrastructure—Subsystem and Component Reliability Improvement Research and Development Needs will meet from 28 Nov–9 Dec 1988 at numerous locations in the United Kingdom, France, and the Federal Republic of Germany.

The purpose of this meeting is to gather information on how our Allies handle the problems associated with "crud parts" and how they, their aircraft manufacturers, and their suppliers control the production quality control of these parts. This meeting will involve discussions of classified defense matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–26154 Filed 11–9–88; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare Draft Environmental Impact Statement (DEIS) for the Proposed Modifications to the Washington, DC, and Vicinity Local Flood Protection (LFP) Project

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Baltimore District, Corps of Engineers is conducting a study to complete the existing line of flood protection for the Washington, DC LFP Project. The study is expected to be completed in September 1990. The local flood protection project for downtown Washington is in place except for the modification providing for permanent closures at 23rd Street and Constitution Avenue, at 17th Street NW., and at P and Canal Streets SW. The closures involve minor grade raisings at Constitution Avenue and P Street. A more comprehensive regrading is required at 17th Street to continue the existing levee which parallels the Lincoln Memorial reflecting pool to high ground between Constitution Avenue and the Washington Monument. At present, project operation continues to require implementation of emergency measures such that the ability of the project to provide the design level of protection is questionable. The modification to the original project as authorized by Congress in 1946 provides for remedial work and the construction of new permanent closures to make the protective system complete

CONTACT FOR FURTHER INFORMATION: Questions about the proposed action and DEIS can be answered by Mr. Ted Rossman, Project Manager, CENAB–EN–RC, Baltimore District Corps of Engineers, P.O. Box 1715, Baltimore, Maryland 21203–1715, telephone (301) 962–4067/68.

SUPPLEMENTARY INFORMATION: 1. The existing local flood protection project was authorized by the Flood Control Act of June 22, 1936 and was constructed in 1940. In October 1942, portions of Washington were flooded when a high tide coincided with the third highest flow of record on the Potomac River. The resulting flood stage was the highest on record and caused an estimated $5,510,000 in damages at October 1988 price levels. Extensive temporary dikes were constructed to close the openings in the existing project under emergency conditions to prevent serious flooding in the downtown area. The experience gained during this flood indicated that temporary closures might not be effective during a flood higher than the 1942 flood.

In the Flood Control Act of July 24, 1946, the U.S. Congress authorized modifications to the existing project to alleviate the need for emergency closures and to conduct remedial work, as necessary, to bring the project to a uniform level of protection. A 1979 review of the improvements indicated that the improvements were still warranted in view of the potential for severe flood damages to the numerous Federal government office buildings, national landmarks, museums, and commercial and residential properties that would be affected. The potential damage area is contained within a large crescent-shaped developed area extending from Constitution Avenue and 17th Street eastward and southward to P Street at Fort McNair. In a flood emergency, the existing project requires temporary earthen barriers to be erected across 17th Street and across Constitution Avenue north of the Lincoln Memorial. Temporary sandbag closures are also needed at P Street adjacent to Fort McNair.

The proposed remedial work consists of minor grading to the levee sections along the existing alignment north of the reflecting pool to reinstate a uniform level of protection in areas where subsidence or work by others has affected the top of protection. A new closure consisting of a raised pavement section less than two feet would be required across Constitution Avenue near Henry Bacon Drive. A new closure structure or regrading would also be required across 17th Street, parallel to Constitution Avenue, which would connect high ground adjacent to Constitution Gardens to high ground south of 17th Street. A raised pavement section along P Street or a low level flood wall along the grassed area adjacent to Fort McNair would also be required.

2. Since this is a modification to an existing system, it is not likely that completely different or separable systems would be feasible. However, practicable alternatives will be considered and addressed in the DEIS. There are several optional plans that can be implemented to complete the closure system. In particular, the closure across 17th Street could consist of a levee section with a ramped roadway over the levee or a levee section with a closure section with stop log beams which would be put into place during a flood emergency. Several variations of these two basic plans are also possible. Alternative plans and variations will be investigated in the design process and coordinated with the resource agencies and the public. The No Action alternative is also a feasible alternative in that the existing emergency plan would be implemented each time a flood emergency threatens the potential damage area.

3. The Baltimore District invites the participation of potentially affected Federal, State, and local agencies and other interested private organizations and parties in this study. Other agencies that will be actively involved in the study include, but are not limited to, the National Park Service (NPS); the Washington, DC Department of Public

Works (DPW); the Commission on Fine Arts (CFA); the U.S. Fish and Wildlife Service; the Smithsonian Institution; the General Services Administration (GSA); the Architect of the Capitol and the National Capital Planning Commission (NCPC).

The public involvement process will be initiated by a scoping meeting, described below. Public concerns or issues, studies needed, alternatives to be examined, procedures and other related matters will be addressed during the scoping meeting. Several workshops are being planned to be held during the study to present findings and results of technical studies and to develop a consensus on acceptable plan solutions. A public meeting will be held after the DEIS has been distributed for public review.

The scoping process will identify significant issues to be analyzed in depth in the DEIS. Engineering investigations and economic and enivironmental baseline studies are now proceeding. The EIS will be prepared to document the effects of the proposal on the fish and wildlife, cultural, historical, and aesthetic resources of the study area and how resource agency concerns have been resolved and/or incorporated in the final design plan.

4. The Scoping Meeting will be held in conjunction with an agency coordination meeting at 10:00 a.m. on December 6, 1988. The meeting will be conducted in the conference room at the National Capital Planning Commission (NCPC), which is located at 1325 G Street NW., Washington, DC 20576.

5. The draft EIS is scheduled to be available for public review May 1989.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 88-26045 Filed 11-9-88; 8:45 am]

BILLING CODE 3710-42-M

Department of the Navy

Naval Research Advisory Committee; Meeting

Notice was published October 28, 1988, at 53 FR 43757 that the Naval Research Advisory Committee Panel on Next Generation Computer Resources will meet on November 16-17, 1988. The meeting dates have been changed. All sessions of the meeting will be held on December 12-13, 1988. All other information in the previous notice remains effective. In accordance with 5 U.S.C. 552b(e)(2), the date of meeting change is publicly announced at the earliest practical time.

Date: November 4, 1988.

Jane M. Virga,

Lieutenant, JAGC, U.S. Navy Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 88-26009 Filed 11-9-88; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88-41-NG]

Consumers' Gas Co. Ltd.; Order Granting Blanket Authorization to Export Natural Gas From the United States to Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice granting blanket authorization to export natural gas from the United States to Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Consumers' Gas Company Ltd. (Consumers' Gas) blanket authorization to export natural gas from the United States to Canada. The order issued in ERA Docket No. 88-41-NG authorizes Consumers' Gas to export up to an aggregate of 100 Bcf of gas supplies over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, 3F-057, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, November 2, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-26128 Filed 11-9-88; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Nonresidential Buildings Energy Consumption Survey (NBECS); Request

AGENCY: Energy Information Administration, for Comments DOE.

ACTION: Request for comments on the 1989 survey forms.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) is seeking comments on the proposed survey forms for the 1989 Nonresidential Buildings Energy Consumption Survey (NBECS). The NBECS is a general purpose statistical survey conducted for non-regulatory purposes. It is designed to meet the needs of public and private data users in addition to meeting the legislative requirements of EIA as specified in section 52 of the Federal Energy Administration Act of 1974, Pub. L. 93-275 as amended. Section 52 requires the EIA to establish a National Energy Information System which "* * * shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate * * *"

The NBECS provides basic statistical informaiton on the consumption of, and expenditures for, energy in U.S. commercial buildings, along with data on energy-related characteristics of these buildings. EIA conducts this national sample survey of nonresidential buildings and their energy suppliers on a triennial basis. Previous NBECS were conducted in 1979, 1983, and 1986. The data from these surveys have been used by policy-makers at the Federal, regional, State, and local levels, and by the private sector for benchmarking forecasting, policy evaluation and planning.

The design of the 1989 NBECS is expected to yield national estiamtes based on 6,000 completed interviews. Present plans call for data to be collected that will yeild valid estimates also for the four Census regions (Northwest, South, Midwest, and West).

As in previous surveys, the 1989 NBECS will be conducted in two states. In the first stage, information about buildings are collected in the Building Characteristics Survey through voluntary personal interviews with the owners, managers or tenants of a sample of buildings located throughout the United States. At the conclusion of the interview, the building respondent is asked to sign a waiver authorizing the survey contractor to obtain fuel consumption records from the building's energy suppliers. In the second stage, the Energy Supplier Survey, data concerning the actual consumption of and expendutures for energy are obtained from records maintained by energy suppliers to the building. This informaiton is obtained by means of a mail survey conducted under EIA's mandatory data collection authority. The interviews with the building owners and managers will take place in the late summer and fall of 1989. The initial

mailings for the Energy Supplier Survey will start in January, 1990 and nonresponse follow-up efforts will continue through September 1990.

The proposed 1989 NBECS is not substantially different from the previous surveys in its basic data requirements. Some changes have been made in order to: Make the data collection more efficient; improve the reliability of the data; and reduce respondent burden.

A series of proposed screening questions and a new survey form, Form EIA–871H, the Facility form have been developed for use on the 1989 NBECS. This new form has been developed to obtain better data on (1) cogeneration and (2) district heating and cooling that takes place in a campus, a complex or multi-building facility such as a hosptial or a shopping mall.

Because NBECS is a building survey and collects information about energy consumed in a building, a problem arises when the building is part of a facility and receives energy from the facilitiy's central power plant. A series of proposed screening questions has been developed as part of the Building Characteristics Survey to determine (1) if the building is located on a facility and (2) if the building receives energy from a central power located on that facility. If so, Form EIA–871H, the proposed Facility form, will then be sent during the Energy Supplier Survey to the facility on which the building is located. This new form will gather the information necessary to permit disaggregation of consumption data for the sampled building.

Destermination if any of the energy generated at the facility is from a cogeneration system would also be obtained from this proposed new form. Previous NBECS surveys asked about cogeneration systems only in the sampled building themselves. Although there are indications that the number of packaged cogeneration units designed to serve a single building is growing, cogeneration in the commercial sector is more likely to be found in a large facility such as a college, hospital, and shopping mall rather than in an individual building, such as a church. Therefore, since most of the buildings on facilities that meet the sampling criteria to be included in the NBECS survey do not contain the cogeneration equipment for the facility, a major segment of the consumption of energy produced through cogeneration might be missed wihout the proposed new Facility form.

ADDRESS: To obtain additional information or copies of the proposed forms, contact Ms. Julia D. Oliver, Energy End Use Division, Energy Information Administration, Department of Energy, Mail Stop 1H–053, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone: 202–586–1114.

DATE: Written responses on the proposed form should be submitted to Ms. Julia D. Oliver, Energy End Use Division at the above address on or before December 12, 1988.

FOR FURTHER INFORMATION: To obtain additional information or copies of the forms, contact Julia Oliver at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Written Comments

I. Background

The proposed 198 NBECS will use essentially the same sample design and questionnaires that were used on the 1986 survey. Comments on the 1986 NBECS were solicited in a March 11, 1986, **Federal Register** Notice (51 FR 8351). That version of the NBECS was modified on the basis of those comments and the EEUD's experience from previous surveys.

The proposed 1989 NBECS design utilizes experience gained from the administration and processing of the 1986 NBECS, and on consultations with respondents, trade association representatives and data users.

II. Current Actions

EIA proposes to make the changes described below to the 1986 NBECS forms for use in the 1989 survey. These changes are being made to better serve the needs of data users, to streamline the administration and processing of the survey and to improve overall data quality.

Specific changes in data items from the 1986 NBECS are discussed below.

Form EIA–871A–Building Characteristics Questionnaire and Authorization Form. Most of the changes made to the Building Characteristics Questionnaire were to clarify instructions, definitions and the intent of the questions to both the respondent and the interviewer. As a result, questions have been combined, reworded, reformatted, and in some cases dropped altogether.

In addition, several interviewer self-edits have been added to ensure that the interviewer has obtained all the pertinent information on energy sources used and energy end uses from the respondent before leaving the building.

Of greater importance is the addition of questions relating to the cogeneration and district heating and cooling issues discussed above. There is a need to collect better information on these two areas. For the 1989 NBECS it is proposed that additional questions be asked on Form EIA–871A if the building is part of a facility or campus complex. If so, information will be obtained on the address of the facility's power plant (if different from the building), the use of a cogeneration system in the facility, and the number of buildings and the total enclosed square footage of all the buildings served by the power plant on the facility. As described below, the facility will then be mailed the proposed Form EIA–871H during the Energy Supplier Survey.

Energy Supplier Forms, Forms EIA–871B through F. The energy supplier forms are essentially the same as those used on previous surveys. Questions and data items that were not found to be useful have been deleted. As a result of our experiences with the 1986 survey, instructions have been clarified, administrative questions have been modified to better obtain the requested data and some questions have been added to help clarify data responses. For example, the question on fuel switching, which appeared on Form EIA–871C (Usage of Natural Gas), has been moved to the Building Characteristics Survey after comments received from respondents indicated that most suppliers of natural gas could not provide the information on back-up fuels used.

Form EIA–871G, Construction Improvements and Maintenance and Repairs Supplement. This is a special supplement designed and collected for the U.S. Bureau of the Census at the end of the Building Characteristics Survey. It is planned that it will be administered again in the 1989 survey. As in previous surveys, this form will be cleared through OMB by the Bureau of the Census.

Energy Supplier Form, Form EIA–871H, Facility Form. A new form is under consideration that will capture better information at the facility level on (1) district heating and cooling and (2) cogeneration that takes place on a multi-building facility, such as a campus or complex. Since it may be implemented, it is presented here for comment.

Because the NBECS is a building survey and collects information about energy consumed in the building, a problem arises when a building is part of a facility and receives energy from a central power plant. Usually buildings on a facility are not individually metered for this energy making it difficult to isolate the consumption for the sampled building. To correct this

situation, the EIA is proposing a new form, Form EIA–871H, to obtain information on the total consumption of primary fuels, the total number of buildings on the facility and other information that will assist in the disaggregation of consumption data for the individual buildings located on the facility.

The proposed Form EIA–871H will also be used to help obtain better information on cogeneration. Previous NBECS surveys asked about cogeneration at the building level (Questions H–1 to H–3 on Form EIA–871A). For the most part, cogeneration identified by these questions would tend to be performed by relatively small packaged cogeneration units. However, the EIA is concerned that by focusing on the building, a major portion of the consumption of energy through cogeneration has been missed: Cogeneration systems located in an on-site power plant that provide the building with district heating and/or cooling. Thus, questions have been developed for the proposed new Form EIA–871H to determine (1) if electricity is cogenerated on the facility; and (2) if so, how many kilowatt-hours of electricity were generated in 1989; (3) the total generating capacity of the equipment; and (4) if the facility has been designated a Qualifying Facility (QF) under the Public Utility Regulatory Policies Act (PURPA) of 1978.

III. Written Comments

The following general guidelines are provided to assist in the preparation of comments. When providing comments, please indicate the form to which the comment applies: (1) The Building Characteristics Questionnaire (Form EIA–871A); (2) the Energy Supplier Forms (EIA–871B through F); (3) the Construction Improvements and Maintenance and Repairs Supplement (Form EIA–871G); or (4) the Facility Form (Form EIA–871H).

As a potential data user:

A. Can you use data at the levels of detail indicated on the forms (or at higher levels of aggregation, if necessary)?

B. For what purpose would you use the data? Please be specific.

C. How could the forms be improved to better meet your specific data needs?

D. Are there alternative sources for the data: What are they? Do you use them, What are their deficiencies?

As a potential respondent:

A. Are the instructions clear and sufficient?

B. How can the forms be improved?

C. Can the data be submitted using the definitions included in the instructions?

D. Public reporting burden for this collection is estimated to average 45 minutes per building for Form EIA–871A; an additional 4 minutes per building for the 3,000 buildings selected for the Construction Improvements and Maintenance and Repairs Supplement (Form EIA–871G) and 25 minutes per form for each of the Energy Supplier Forms B through F and the proposed Facility form, Form EIA–871H. As a potential recipient of a form, how much time on a per building basis, do you estimate it will require your company to complete and submit the appropriate form? (Include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.)

E. Do you know of other Federal, State, or local agencies that collect similar data? If so, specify the agency and the means of collection.

The EIA is also interested in receiving comments from persons regarding their views on the need for the collection of the information contained in this survey.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this survey and will become a matter of public record.

Statutory Authority

Sections 5(a), 5(b), 13(b), and 52 of Public Law 93–275, Federal Energy Administration Act of 1974, as amended (15 U.S.C. S764(a), 764(b), 772(b), and 790(a)).

Issued in Washington, DC on November 4, 1988.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 88–26129 Filed 11–9–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER88–602–000, et al.]

Mississippi Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Mississippi Power & Light Company

[Docket No. ER88–602–000]

November 1, 1988.

Take notice that on October 11, 1988, Mississippi Power & Light Company (MP&L) tendered for filing a response to the Staff's deficiency letter in this proceeding.

MP&L requests an effective date of August 31, 1988 for the letter agreement. MP&L requests waiver of the Commission's notice requirements under § 35.11 of the Commission's Regulations.

Comment date: November 9, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Texasgulf, Inc.

[Docket No. QF88–51–001]

November 3, 1988.

On October 24, 1988, Texasgulf, Inc. Applicant, of 3101 Glenwood Avenue, P.O. Box 30321, Raleigh, North Carolina 27622–0321 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Wharton County, Texas. The facility will consist of a combustion turbine generator, heat recovery steam-turbine generator and a steam turbine generator which is used in the Frasch mining process which involves injecting large quantities of superheated water into an underground sulphur bearing formation to melt the sulphur, and then air lifting the molten sulphur to the surface. The net electric power production capacity will be 86,380 Kilowatts. The primary energy source will be natural gas. Installation of the facility began during June 1984.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

3. Foster Wheeler Broome County, Inc.

[Docket No. QF89–6–000]

November 3, 1988.

On October 12, 1988, Foster Wheeler Broome County, Inc. (Applicant), of Perryville Corporate Park, Clinton, New Jersey 08809–4000 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Broome County, New York. The facility will consist of waterwall steam generator trains and a single turbine generator. The net electric power production capacity will be 15 megawatts. The primary energy will be biomass in the form of municipal solid waste. Natural gas will be used for

ignition, start-up, testing, flame stabilization and control, however, such fossil fuel uses will not exceed 25 percent of the total energy input of the facility during any calendar year. Construction of the facility will be in 1989.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas Gas and Electric Company

[Docket No. ES89-3-000]

November 3, 1988.

Take notice that on October 28, 1988, Kansas Gas and Electric Company (Applicant) filed an application with the Commission, pursuant to section 204 of the Federal Power Act, seeking authority to borrow from time to time through December 31, 1992, from any bank or banks, trust company or trust companies, or through the issuance of unsecured promissory notes in the form of commercial paper with maturities of not more than one (1) year, such amounts of money not to exceed $225,000,000 in the aggregate. All notes will have final maturities of not later than December 31, 1992.

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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,

Secretary.

[FR Doc. 88-26022 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-103-000, et al.]

Tennessee Gas Pipeline Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Company

[Docket No. CP89-103-000]

November 3, 1988.

Take notice that on October 31, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252 filed in Docket No. CP89-103-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act for Power Resources Operating Company, Inc. (Power Resources), all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to transport natural gas for Power Resources, a broker. Tennessee explains that service commenced October 1, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-340. Tennessee further explains that the peak day quantity would be 23,000 dekatherms, the average daily quantity would be 23,000 dekatherms, and that the annual quantity would be 8,395,000 dekatherms. Tennessee explains that it would receive natural gas for Power Resources' account at six points in the states of Louisiana and Texas, as well as offshore Louisiana and Texas. Tennessee further explains that, it would redeliver natural gas for the account of Power Resources in the states of Ohio, West Virginia, and Pennsylvania. It is indicated that the location of the ultimate delivery points of the gas are also in the states of Ohio, West Virginia, and Pennsylvania.

Comment date: December 19, 1988, in accordance with standard Paragraph G at the end of this notice.

2. Natural Gas Pipeline Company of America

[Docket No. CP89-96-000]

November 3, 1988.

Take notice that on October 28, 1988, Natural Gas Pipeline Company of America (Natural) 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-96-000 a request pursuant to § 157.05 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Enron Gas Marketing, Inc. (Enron), under its blanket authorization issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural would perform the proposed interruptible transportation service for Enron, a marketer of natural gas, pursuant to an interruptible transportation service agreement dated July 19, 1988 (#IGP-1295) and amendments dated August 16, 1988, August 25, 1988, and September 20, 1988. The term of the transportation agreement is from the date of the contract and shall continue for a primary term ending August 1, 1990, and shall continue month to month thereafter unless cancelled by five days prior notice by either party. Natural proposes to transport on a peak day up to 100,000 MMBtu per day; on an average day up to 50,000 MMBtu; and on an annual basis 18,250,000 MMBtu of natural gas for Enron. Natural further states that consistent with its Rate Schedule ITS, Enron may request and Natural may agree to accept additional quantities as overrun gas. Natural proposes to receive the subject gas from various existing points of receipt on its system in Louisiana, offshore Louisiana, Illinois, Texas, offshore Texas, Oklahoma, New Mexico, Iowa, Arkansas, Kansas, and Nebraska for redelivery to various delivery points in Texas. Natural avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Natural commenced such self-implementing service on September 1, 1988, as reported in Docket No. ST89-416-000.

Comment date: December 19, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Natural Gas Pipeline Company of America

[Docket No. CP89-87-000]

November 3, 1988.

Take notice that on October 25, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-87-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation on behalf of OXY NGL, Inc. (OXY), under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural requests authorization to transport, on an interruptible basis, up to a maximum of 80,000 MMBtu of natural gas for OXY from receipt points located in Texas, Lousisiana, offshore Louisiana, Kansas, Oklahoma, Colorado and Iowa to delivery points located in Texas, Illinois and Louisiana. Natural anticipates transporting, on an average day 20,000 MMBtu and an annual volume of 7,300,000 MMBtu.

Natural states that the transportation of natural gas for OXY commenced September 1, 1988, as reported in Docket No. ST89-328-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Natural in Docket No. CP89-582-000.

Comment date: December 19, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company

[Docket No. CP89-88-000]

November 4, 1988.

Take notice that on October 25, 1988, Tennessee Gas Pipeline Company (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-88-000 a request for authorization pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act and Applicant's blanket certificate issued in Docket No. CP87-115-000 for authorization to provide a transportation service for Citizens Gas Supply Corporation, (Citizens), a marketer, all as more fully set out in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated September 16, 1988, it proposes to transport natural gas for Citizens from various receipt points located offshore Louisiana and offshore Texas, and in the states of Texas, Louisiana, Mississippi, Alabama, New York, Ohio, Connecticut, Kentucky and Pennsylvania. It is maintained that the points of delivery would be located in the states of Louisiana, Mississippi, Rhode Island, and New York. The ultimate point of delivery would be the state of New York.

The Applicant further states that under the contract, the transportation volumes would be as follows:

Maximum daily quantity—250,000 dt.
Average day—250,000 dt.
Annual basis—91,250,000 dt.

It is asserted that service under § 284.223(a) commenced September 30, 1988, as reported in Docket No. ST89-244.

Comment date: December 19, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Natural Gas Pipeline Company of America

[Docket No. CP89-112-000]

November 4, 1988.

Take notice that on October 31, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-87-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Westar Trading and Refining, Inc. (Westar), a marketer of naturla gas, under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural proposes to transport on an interruptible basis up to 30,000 MMBtu of natural gas equivalent per day, plus additional quantities of overrun gas, on behalf of Westar pursuant to a transporation agreement dated August 24, 1988, between Natural and Westar.Natural would receive gas at various existing points of receipt on its system in Texas, Louisiana, offshore Louisiana, Oklahoma and Iowa and redeliver equivalent volumes, les fuel and unaccounted for volumes, at existing delivery points in Texas, Louisiana, Oklahoma, Iowa, Kansas and Illinois.

Natural further states that the estimated average daily and annual quantities would be 12,000 MMBtu and 4,380,000 MMBtu, respectively. Service under § 284.223(a) commenced on September 1, 1988, as reported in Docket No. ST89-459-000, it is stated.

Comment date: December 19, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. National Fuel Gas Supply Corporation

[Docket No. CP89-85-000]

November 4, 1988.

Take notice that on October 24, 1988, National Fuel Gas Supply Corporation (National), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP89-85-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the replacement of 15,000 feet of 22-inch pipleine with an equivalent length of 24-inch coated steel line in Hamburg, New York (Erie Country), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National proposes to construct and operate a replacement of the 22-inch segment because it is old, bare, and in close proximity to residential dwellings which makes future maintenance of the line difficult.

National states that the purpose of the facility proposed is to maintain existing markets, and that the cost of construction is estimated to be $1,481,622, which will be financed with internally generated funds and/or interim short-term bank loans.

Comment date: November 25, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 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 not 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,

Secretary.

[FR Doc. 88–26096 Filed 11–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA89–1–1–000]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

November 4, 1988.

Take notice that on October 31, 1988, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing as part of its FERC Gas Tariff, the following tariff sheet.

Ninth Revised Sheet No. 4.

The tariff sheet is proposed to become effective January 1, 1989. Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers and to change its FERC Annual Charge Adjustment.

Alabama-Tennessee states that the instant filing represents its annual purchased gas cost adjustment pursuant to § 154.305 of the Commission's regulations and contains the Assessment of Past Performance required by § 154.306.

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheets to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory 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 Rule 211 or Rule 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 November 28, 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 to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cahsell,

Secretary.

[FR Doc. 88–26023 Filed 11–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ89–1–22–000 and RP89–15–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 4, 1988.

Take notice that CNG Transmission Corporation ("CNG"), on November 1, 1988, pursuant to section 4 of the Natural Gas Act, Part 154 of the Commission's regulations (18 CFR Part 154) and section 12 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff:

Fourth Revised Sheet No. 31.
Second Revised Sheet No. 150.

CNG states this filing, quarterly PGA, is tendered to become effective on December 1, 1988. The filing would increase CNG's RQ and CD commodity rates by 6.47 cents per dekatherm, decrease D–1 demand rates by 23.09 cents per dekatherm, and decrease D–2 demand rates by 1.04 cents per dekatherm. Other rates are changed correspondingly.

CNG states this filing seeks a revision in CNG's tariff to permit the automatic passthrough of pipeline supplier standby charges.

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervent with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20462, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211). All motions or protests should be filed on or before November 14, 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,

Secretary.

[FR Doc. 88–26024 Filed 11–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA89–1–2–000]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

November 4, 1988.

Take notice that East Tennessee Natural Gas Company (East Tennessee) hereby filed the following revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1989:

Forty-Fifth Revised Sheet No. 4.

East Tennessee states that the purpose of this revision is to institute the Annual PGA pursuant to sections 22.2 and 22.3 of the General Terms and Conditions of East Tennessee's Tariff.

East Tennessee states the rate adjustments reflected on Forty-Fifth Revised Sheet No. 4 consist of $.0637 per dekatherm adjustment applicable to the gas rate and the Rate Schedule SWS, $(.12) per dekatherm applicable to the D_1 component of the demand rates and a $.0033 per dekatherm adjustment to the D_2 component.

East Tennessee states the revisions relfect a $(.0086) per dekatherm surcharge adjustment to the gas rates and $(.26) per dekatherm surcharge adjustment to the demand D_1 rate and $.0008 per dekatherm surcharge to the demand D_2 rate for amortizing the Unrecovered Gas Cost Account.

East Tennessee states that the current adjustment to its demand rates (D_1 and D_2) reflect the demand charges from Tennessee Gas Pipeline Company effective January 1, 1988. East Tennessee states that current adjustments to its gas rate reflect increases in the gas rate of Tennessee and other various producer-suppliers.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory 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. All such motions or protests should be filed on or

before November 29, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not srve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26026 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-58-023 and TA85-1-33-012]

El Paso Natural Gas Co.; Filing

November 4, 1988.

Take notice that on October 25, 1988, El Paso Natural Gas Company (El Paso) filed the following tariff sheets to its FERC Gas Tariff and detailed supporting workpapers in compliance with the Commission's letter order of September 30, 1988:

First Revised Volume No. 1

Third Substitute Sixteenth Revised Sheet No. 100.
Substitute Eighteenth Revised Sheet No. 100.
First Substitute Eighteenth Revised Sheet No. 100.

Third Revised Volume No. 2

Third Substitute Fortieth Revised Sheet No. 1-D.
Substitute Forty-second Revised Sheet No. 1-D.
First Substitute Forty-second Revised Sheet No. 1-D.

Original Volume No. 2A

Third Substitute Forty-second Revised Sheet No. 1-C.
Substitute Forty-fourth Revised Sheet No. 1-C.
First Substitute Forty-fourth Revised Sheet No. 1-C.

El Paso states that subsequent to filing with the Commission, El Paso discovered certain errors in the tariff sheet pagination for the sheets effective July 1, 1988 and rate calculations for the tariff sheets effective October 1, 1988. El Paso states that such errors were corrected on the service copies of the filing prior to mailing.

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 (1988)). All such motions or protests should be filed on or before November 14, 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,

Secretary.

[FR Doc. 88-26025 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-14-000]

Inter-City Minnesota Pipelines Ltd., Inc.; Proposed Changes in FERC Gas Tariff

November 4, 1988.

Take notice that on October 31, 1988, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 York Land Boulevard, North York, Ontario M2J 1R1, tendered for filing certain revised tariff sheets to Original Volume No. 1 and Original Volume No. 2 its FERC Gas Tariff.

Inter-City has also filed supporting calculations and work papers showing the computations of the proposed rate change.

Inter-City states this proposed tariff revision reflects a change in the level of Inter-City's jurisdictional rates and volumes from the currently effective levels and provides for an increase in current annual cost of service of approximately 5.3 percent, to approximately $972,900. The rates reflected in this filing are designed to bring Inter-City's revenues to a level of its costs and reflects changes in rate of return and other base rate changes. Inter-City is also filing revised tariff sheets to remove references to MMBtu.

Inter-City requests these tariff sheets to become effective December 1, 1988.

Also contained in the filing is a modification of Inter-City's one-part Western Zone rate to a two-part rate, consistent with Inter-City's Eastern Zone rate.

Copies of the filing were served on Inter-City's jurisdictional customers and interested state commissions.

Any persons 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, 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 November 14, 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,

Secretary.

[FR Doc. 88-26027 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

November 4, 1988.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on October 31, 1988, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective December 1, 1988:

Sixty-Sixth Revised Sheet No. 3a
superseding Sixty-Fifth Sheet No. 3a.

Mid Louisiana states that the purpose of the filing of Sixty-Sixth Revised Sheet No. 3a is to reflect a 30.21¢ per MCF increase in its current cost of gas.

This filing is being made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana'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 sections 211 and 214 of the Commission's Rules of Practice and Prodcedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 14, 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,

Secretary.

[FR Doc. 88-26028 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-12-000]

Mississippi River Transmission Corp.; Tariff Filing

Take notice that on October 29, 1988 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to it FERC Gas Tariff, Second Revised Volume No. 1:

Tariff Sheet—Proposed Effective Date

Original Sheet No. 4A.2—September 29, 1988.
Alternate Original Sheet No. 4A.2—September 29, 1988.
Fourth Revised Sheet No. 62—September 29, 1988.
Alternate Fourth Revised Sheet No. 62—September 29, 1988.
Third Revised Sheet No. 63—September 29, 1988.

MRT states that its filing is being submitted to reflect in its rates and charges the flow-through of fixed take-or-pay charges billed to MRT by Trunkline Gas Company (Trunkline) in Docket No. RP88-239. MRT states that its primary tariff sheets utilize a Demand Component D-1 allocation methodology for the flow-through of Trunkline take-or-pay charges. MRT states that the impact of the primary tariff sheets on its jurisdictional sales customers is an increase of approximately $3.4 million annually.

MRT states that its filing also contains alternate tariff sheets which reflect utilization of the cumulative purchase deficiency allocation method for the flow-through of Trunkline take-or-pay charges. MRT states that the impact on its jurisdictional sales customers of the alternate tariff sheets is an increase of approximately $2.8 million annually.

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 §§ 385.211 and 385.214 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 November 14, 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 filed a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26029 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-13-000]

Mississippi River Transmission Corp.; Tariff Filing

November 4, 1988.

Take notice that on October 28, 1988 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Tariff Sheet—Proposed Effective Date

Tenth Revised Sheet No. 4A—November 1, 1988.
Fifth Revised Sheet No. 62—November 1, 1988.
Alternate Fifth Revised Sheet No. 62—November 1, 1988.

MRT states that its filing is being submitted to reflect in its rates and charges the follow-through of Fixed Additional Take-or-Pay Charges billed to MRT by United Gas Pipe Line Company (United) in Docket No. RP88-264.

MRT states that the impact of the Additional Monthly Take-or-Pay Charges on its jurisdictional customers is an annual increase of approximately $3.5 million.

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, NW., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before November 14, 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,

Secretary.

[FR Doc. 88-26030 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

November 4, 1988.

Take notice that on October 341, 1988, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet proposed to become effective January 1, 1989: Seventeenth Revised Sheet No. 4.

National states this filing reflects its first annual PGA incompliance with § 154.305 of the Commission's Regulations. National states that the purpose of the tariff sheet is to reflect the quarterly Purchased Gas Cost adjustments required under the Commission's Regulations.

Further, National states that Seventeenth Revised Sheet No. 4 reflects an overall increase in rates of 5.86 cents per dekatherm. The overall increase results from an increase in current purchased gas costs, a positive demand surcharge adjustment, and a negative commodity surcharge adjustment.

National states that copies of this filing were served upon the Company's jurisdictional customers and the regulatory commissions of the states of New York, Ohio, Pennsylvania, Delaware and New Jersey.

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 Rule 214 of the Commission's Procedural Rules (18 CFR 385.214). All such motions to intervene or protests should be filed on or before November 28, 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,

Secretary.

[FR Doc. 88-26032 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-26-000]

Natural Gas Pipeline Co. of America; Change in Rates

November 4, 1988.

Take notice that on October 31, 1988, Natural Gas Pipeline Company of Ameican (Natural) tendered for filing as

part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff), the below listed tariff sheets to be effective December 1, 1988:

Sixth Substitute Seventy-fifth Revised Sheet No. 5
Sixth Substitute Fortieth Revised Sheet No. 5A

Natural states the purpose of the instant filing is to implement Natural's quarterly PGA unit rate adjustment calculated pursuant to Section 18 of the General Terms and Conditions of Natural's Tariff.

Natural states the overall effect of the quarterly adjustment when compared to Natural's last quarterly PGA filing in Docket No. TQ88-2-26-000 effective September 1, 1988, is an increase in the DMQ-1 commodity charge of 125.06, a decrease in the DMQ-1 demand charge of $.01 and a decrease in the DMQ-1 entitlement charge of $.0007. Appropriate adjustments have been made with respect to Natural's other rate schedules.

A copy of this filing is being mailed to Natural's jurisdictional sales customers and interested state regulatory agencies.

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 (1988)). All such motions or protests should be filed on or before November 14, 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 tointervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26031 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-10-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 4, 1988.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on October 28, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volumes No. 1:

Original Sheet No. 3-C.13
Original Sheet No. 3-C.14
Original Sheet No. 3-C.15
First Revised Sheet No. 43-14

Panhandle proposed a November 28, 1988 effective date.

Panhandle states that the foregoing tariff sheets are being filed pursuant to Order No. 500 to recover additional take-or-pay settlement and contract reformation cost fixed surcharges which its pipeline suppler, Trunkline Gas Company billed to Panhandle. As a downstream pipeline, Panhandle proposes to recover such costs on an as-billed basis, pursuant to § 2.104(e) of the Commission's General Policy and Interpretations. For fixed costs billed to Panhandle by its pipeline supplier, Panhandle will allocate such costs to its customers utilizing the same deficiency-based formula which its pipeline supplier utilized in allocating its fixed-charge take-or-pay settlement and contract reformation costs to Panhandle.

Copies of the filing were served upon Panhandle's jurisdictional customers, interested state commissions and the parties in Docket Nos. RP87-103 and RP88-262.

Any person desiring to be heard or to protest said filing should file a motion to intevene or protest with the Federal Energy Regulatory Commission, Union Center, Plaza Building, 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 November 14, 1988. Protests will be considered by the Commission in determining the appropriation 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 Panhandle's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26033 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-55-000]

Questar Pipeline Co.; Rate Change

November 4, 1988.

Take notice that on October 31, 1988, Questar Pipeline Company tendered for filing and acceptance Eighteenth Revised Sheet No. 12 to be effective December 1, 1988, to its FERC Gas Tariff, First Revised Volume No. 1.

Questar Pipeline states that the purpose of this filing is to: (1) Adjust the purchased gas costs under Questar Pipeline's sale-for-resale Rate Schedule CD-1 effective November 1, 1988; and (2) to request an extension of a temporary waiver of the PGA clause and related Commission regulations to permit gas-cost treatment of certain firm transportation demand charges from Northwest Pipeline Corporation related to the conversion of Questar Pipeline's contract demand from Northwest's PL-1 sales rate schedule to its TF-1 transportation rate schedule for the period October 1, 1988, through October 31, 1989.

Questar Pipeline further states that Eighteenth Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.15998/Dth for sales under its Rate Schedule CD-1 whic is $0.13892/Dth higher than the currently effective rate of $2.02106/Dth. The demand base cost of purchased gas as adjusted is increased by $.27139/Mcf to $.42655/Mcf.

Questar Pipeline has requested any necessary waivers of the Commission's Rules and Regulations to allow the tendered tariff sheet to become effective as proposed, and states that is has provided a copy of the filing to its sales customer and state public service 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 November 14, 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,

Secretary.

[FR Doc. 88-26034 Filed 11-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-6-0000]

Sea Robin Pipeline Co.; Tariff Filing of Revised Tariff Sheet and Request for Relief

November 4, 1988.

Take notice that on November 1, 1988, Sea Robin Pipeline Company (Sea Robin) tendered for filing to its FERC Gas Tariff, to be effective January 1, 1989:

Original Volume No. 1

Fifty-Fourth Revised Sheet No. 4

Sea Robin states that due to the magnitude of its deferred purchased gas cost account balance relative to projected sales, Sea Robin is requesting one time authority to defer billing its existing Account No. 191 balance as of December 31, 1988. Absent dererral the current surcharge would be $3,3282 per mcf and when added to Sea Robin's gas cost of $3.2264 would result in an intolerable and unacceptable gas cost of $6,5546.

Sea Robin states that its filing includes a request to merge the deferred account balance related to sales rate schedules X–7 and X–8 with the balance related to sales rate schedules X–1 and X–2. Sea Robin requests authority to combine X–7 and X–8 because the dererred account balance is negative indicating an overcollection with the refunds due its customers, and, because Sea Robin no longer has a contracturla obligation to purchase any gas underlying those dates schedules and that no purchases are anticipated.

Sea Robin states an effective date of Jan. 1, 1989 for combining and dererring the deferred account balances, and the preceding tariff sheet is requested. The above referenced tariff sheet is being filed pursuant to § 154.10 of the Commission's regulations to reflect the changes in the purchased gas cost adjustment provisions contained in Sections 1 and 4 of Sea Robin's FERC Gas Tariff, Original Volume No. 1.

Sea Robin states the tariff sheet reflects a Current Adjustment of −$0.0370 under Rate Schedules X–1 and X–2. Sea Robin states that there is no change under Rate Schedules X–7 and X–8 in this filing since no gas is expected to be purchased in that area.

Sea Robin states that the revised tariff sheet and supporting data are being mailed to its jurisdictional sales customers and to interested state commission.

Any person desiring to be hear or to protest said filing should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in such accordance with § 385.214 and 385.211 of the Commission's regulations. All such motions or protests should be filed on or before November 28, 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,

Secretary.

[FR Doc. 88–26035 Filed 11–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA89–1–9–000]

Tennessee Gas Pipeline Co.; Rate Change Under Tariff Rate Adjustment Provisions

November 4, 1988.

Take notice that on November 1, 1988, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheets to its FERC Gas Tariff to be effective January 1, 1989:

Second Revised Volume No. 1

Item A:
- Ninth Revised Sheet No. 20
- Sixth Revised Sheet No. 20A
- Eleventh Revised Sheet No. 21

Item B:
- Third Revised Sheet Nos. 31 through 36

Original Volume No. 2

Item C:
- Tenth Revised Sheet No. 5
- Ninth Revised Sheet No. 6

Tennessee states that the purpose of the revisions listed under Item A is to reflect various PGA rate adjustments pursuant to sections 2, 3, and 5 of Article XXIII of the General Terms and Conditions of Tennessee's Tariff. Tennessee states that the purpose of the revisions listed under Item B is to reflect (1) amortization of Order 94 production-related costs pursuant to the settlement agreement approved by the Commission's Order on June 14, 1985 in Docket Nos. CP84–441, *et al.* and (2) Recovery of Order 473 producer compressor fuel costs pursuant to Article XXIX of the General Terms and Conditions of its FERC Gas Tariff. Tennessee states that the purpose of the revisions listed under Item C is to reflect adjustments to transportation rate schedules for changes in the cost of gas for fuel and losses pursuant to section 5 of Article XXIX of the General Terms and Conditions.

Tennessee states that the total change in the Tennessee Gas Rate from the last scheduled PGA is 9.12 cents per dth consisting of a Current Purchased Gas Rate Adjustment of (1.01) cents per dth and a Surcharge for Amortizing Unrecovered Purchase Gas Costs of 10.13 cents per dth to be effective from January 1, 1989 through December 31, 1989. Tennessee states that the total change to the Demand Rate is 5 cents per dth, reflecting a Current Adjustment of 4 cents and a Surcharge for Amortizing Unrecovered Purchase Gas Costs of 1 cent. Tennessee states that the gas rate adjustment is based upon an Average Cost of Purchased Gas of $2.2477 per dth.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions. Any persons 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, 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 November 28, 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; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–26036 Filed 11–9–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–16–000]

Transwestern Pipeline Co., Division of Enron Corp.; Filing

November 4, 1988.

Take notice that on November 1, 1988, Transwestern Pipeline Company tendered for filing to become a part of Transwestern's F.E.R.C. Gas Tariff, Second Revised Volume No. 1, to be effective December 1, 1988:

3rd Revised Sheet No. 29
1st Revised Sheet No. 29A
1st Revised Sheet No. 30I
4th Revised Sheet No. 32
1st Revised Sheet No. 32A
3rd Revised Sheet No. 34D
1st Revised Sheet No. 34E
1st Revised Sheet No. 60

Transwestern proposes to eliminate the requirements under section 3 of Rate Schedules FTS–1 and ITS–1, that it provide Buyers with notification twenty-four (24) hours prior to, and written verification five (5) days following, the effective date of discounted rates. Transwestern has established an electronic bulletin board in response to Order No. 497 to communicate such

pricing information, as well as information relating to available capacity contemporaneously to all potential Shippers, obviating the need for notification by other means.

Transwestern states section 5 of Schedule FTS–1 and ITS–1 have been modified to require Buyers to nominate transportation service two (2) days in advance of the first day of a month and make all Buyer nomination time periods exclusive of Saturdays, Sundays and holidays. In addition, a new provision has been added to the section to provide Transwestern with the ability to schedule transportation nominations outside the established time period where capacity remains available after gas has been scheduled or as the result of an operational or weather situation. Such modifications (1) will afford Transwestern the time needed to schedule and coordinate with other pipeline companies the influx of transportation activity that accompanies a new month; (2) clarify that transportation must be nominated by Buyers during Transwestern's standard working hours; and (3) provide greater flexibility in the scheduling of transportation nominations to accommodate last minute changes that can occur in pipeline operations, supply or markets.

Transwestern states section 14 of Schedule ITS–1 reflects a modification which would permit a Buyer to substitute a newly-constructed delivery point for an existing delivery point under an executed ITS–1 Service Agreement without affecting the priority date of such Service Agreement in the interruptible, first come, first served queue. While generally a request for additional delivery points will continue to constitute a new request for transportation service, this exception, for example, would permit a Buyer who desires alternate downstream transportation into the California market to request that Transwestern interconnect with such alternate transporter, without affecting the Buyer's priority in the interruptible queue.

Transwestern states sections 15 and 17 of Schedules FTS–1 and ITS–1 reflect a modification which would permit Transwestern to waive any tariff provision in a not unduly discriminatory manner. This modification is proposed in response to the Commission mandate under Order No. 497 that pipelines strictly enforce all tariff provisions in the event these provisions contain no discretionary language. As Transwestern noted in its Request for Rehearing of Order No. 497, operational situations occur from time to time which may have an indeterminable effect on the pipeline and may prevent the pipeline from strictly enforcing its tariff provisions. Because there are a multitude of such situations, solutions cannot be identified in advance. A pipeline must have sufficiently flexible tariff provisions to allow it to react reasonably to problematic situations in a not unduly discriminatory manner. The proposed tariff provision provides Transwestern with the flexibility it needs to address such undefined situations as they occur.

Transwestern states that it proposes to modify its established schedule for meter testing as set forth in section 5.6 of the General Terms and conditions of its Tariff. The monthly testing of measuring equipment is much too frequent. Transwestern proposes to test such equipment periodically in an effort to reduce the time and expense associated with monthly testing.

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 the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 14, 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,

Secretary.

[FR Doc. 88–26037 Filed 11–9–88; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3474–6]

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 comments. The ICRs describe the nature of the information collection and their expected cost and burden; where appropriate, they include the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Clara Levesque at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS Municipal Incinerator Reporting and Recordkeeping Provisions. (EPA ICR # 1058) This is a request for renewal of an existing collection.

Abstract: Owners and operators of municipal incinerators must notify EPA of construction, startup, shutdown, malfunction, and modification to the plant. Owners and operators must also report performance test results and record the occurrence and duration of any startup, shutdown, or malfunction in the operation of the facility. In addition, owners and operators must record daily charging rates and measurements of particulate matter emissions. The States and/or EPA use this information to ensure compliance with the standards and, when necessary as evidence in court.

Burden Statement: Public reporting burden is estimated to be approximately 70 hours per performance test (on average), including time for providing notification, reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Recordkeeping requirements are estimated to consume 15 minutes each day.

Respondents: Owners and operators for municipal incinerators with a charging rate of more than 50 tons per day which commenced construction or modification after August 17, 1971.

Estimated No. of Respondents: 58.

Estimated Total Annual Burden on Respondents: 5,642 hours.

Frequency of Collection: On occasion.

Title: NSPS Monitoring Requirements For Coal Preparation Plants. (EPA ICR # 1062) This is a request for renewal of an existing collection.

Abstract: Owners and operators of coal preparation plants must notify EPA of construction, startup, shutdown, malfunction, and modification to the plant. Owners and operators must also report performance test results and record the occurrence and duration of any startup, shutdown, or malfunction in the operation of the facility. In addition, owners/operators must install, calibrate,

maintain and continuously measure the temperature of the gas stream of the dryer, and if applicable, the pressure drop across the scrubber system. The State and/or EPA use this information to ensure compliance with the standards and, when necessary, as evidence in court.

Burden Statement: Public reporting burden is estimated to be approximately 350 hours per performance test (on average), including time for providing notification, reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Recordkeeping requirements are estimated to consume 3 minutes each day.

Respondents: Owners and operators of coal preparation plants which process over 200 tons per day and which commenced construction or modification after October 24, 1974.

Estimated No. of Respondents: 217.

Estimated Total Annual Burden on Respondents: 20,555 hours.

Frequency of collection: On occasion.

Title: NESHAP for Beryllium (Subpart C)—Information Requirements. (EPA ICR # 0193) This is a request for renewal of an existing collection.

Abstract: Owners and operators of affected facilities must apply for approval of construction or modification as well as approval of proposed ambient monitoring plans. Owners and operators must also notify EPA of startup, and initial performance testing. In addition, monthly reports on ambient beryllium monitoring or emission levels must be submitted. This informaiton is needed to ensure compliance with the standard, alert EPA to public health hazards, and provide evidence in court when appropriate.

Burden Statement: Reporting burden is estimated to be approximately 8 hours for each monitoring report, including time for providing notification, reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Recordkeeping requirements are estimated to consume 15 minutes each day.

Respondent: Owners and operators of all extraction plants, ceramic plants, foundries, incenerators, and propellant plants which process beryllium ore, beryllium, beryllium oxide, beryllium alloys, or beryllium-containing waste. These requirements also apply to machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than five percent beryllium by weight.

Estimated No. of Respondents: 236.

Frequency of Collection: Monthly.

Total Annual Burden: 37,406 hours.

Title: NSPS For Nonmentallic Mineral Processing Plants—Reporting and Recordkeeping Requirements. (EPA ICR # 1084) This is a request for renewal of an existing collection.

Abstract: Owners and operators of nonmetallic mineral processing plants must notify EPA of construction, startup, shutdown, malfunction, and modification of the plant. Owners and operators must also report performance test results and record the occurrence and duration of any startup, shutdown, or malfunction in the operation of the facility. In addition, owners/operators must install, calibrate, maintain, and continuously measure the temperature of the gas stream through the scrubber, and of the scrubbing liquid flow rate. Owners and operators must also submit semiannual reports of occurrences when the scrubber pressure drop and liquid flow rate differ by more than 30% from the measurement recorded during the most recent performance test. The States and/or EPA use this information to ensure compliance with the standards and, when necessary, as evidence in court.

Burden Statement: Public reporting burden is estimated to be approximately 345 hours per performance test (including notification of construction, modification, etc.) and 8 hours per scrubber malfunction report, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Recordkeeping requirements are estimated to consumre 15 minutes each day.

Respondents: Requirements apply to owners and operators of the following facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyer, bagging operation, storage bin, enclosed truck or railcar loading station commencing construction or modification after August 31, 1983.

Estimated No. of Respondents: 66.

Estimated Total Annual Burden on Respondents: 6,024 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimates or any other aspects of these collections of information, including suggestions for reducing the burden, to:

Carla Levesque, Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460

and

Nicholas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC, 20503, Telephone (202-395-3084).

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 1039; Technical and Financial Reports Submitted in Accordance with Contracts Requirements; was approved 9/20/88; OMB # 2030-0005; expires 10/31/90.

EPA ICR # 1049; Notification of Oil or Hazardous Substances Episodic Releases; was approved 9/28/88; OMB # 2050-0046; expires 9/30/91.

EPA ICR # 0229; NPDES Discharge Monitoring Report; was approved 9/26/88; OMB # 2040-004; expires 6/30/91.

EPA ICR # 1395: Title III Emergency Planning And Emergency Release Notification; was approved 9/28/88; OMB # 2050-0092; expires 9/30/91.

EPA ICR # 1038; Acquisition Solicitation (IFB's and RFP's; was approved 9/21/88; OMB # 2030-0006; expires 12/31/90.

Dated: October 27, 1988.

Paul Lapsley,

Director Information and Regulatory Systems Division.

[FR Doc. 88-26057 Filed 11-9-88; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3475-4]

Environmental Impact Statements and Regulations; Availability of EPA Comments Prepared October 24 through 28, 1988

Availability of EPA comments prepared October 24, 1988 through October 28, 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) 382-5074.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 22, 1988 (53 FR 13318).

Draft EISs

ERP No. D-BLM-K65118-AZ, Rating EC2, San Pedro River Riparian Resource Management Plan, Implementation, San Simon Resource Area, Safford District, Cochise County, AZ.

Summary: EPA expressed environmental concerns because the preferred alternative's level of proposed recreational and minerals development could conflict with the goal of protecting the area's natural resources, such as water quality, riparian habitats, and wildlife.

ERP No. DS–COE–K32029–HI, Rating EC2, Kaulana Bay Navigation Improvements, Reevaluation of Project, Implementation, South Point, Island of Hawaii, Hawaii County, HI.

Summary: EPA expressed environmental concerns and requested that the final supplemental EIS identify control measures to protect water quality from erosion from shoreside developments, document water quality certification from the State of Hawaii, and specify mitigation measures to protect water quality, beneficial uses and aquatic resources.

ERP No. LD–SFW–L64040–AK. Rating EC2, Alaska National Wildlife Refuges Native Owned Inholdings Acquisition in Exchange for Limited Oil and Gas Interest in the Coastal Plain of the Arctic National Wildlife Refuge, AK.

Summary: EPA expressed environmental concerns due to lack of a commitment in the EIS from the Department of Interior to prepare site-specific NEPA documents for exploration activities.

Final EISs

ERP No. F–BLM–J65147–WY, Cody Resource Area Land Management Plan, Implementation, Big Horn and Park Counties, WY.

Summary: Though some of EPA's concerns with the draft EIS have been addressed. EPA is still concerned with impacts to water quality and to wetlands.

ERP No. F–BLM–J65148–UT, Pony Express Resource Management Plan, Implementation, Salt Lake District, Utah, Tooele and Salt Lake Counties, UT.

Summary: EPA's concerns with the draft EIS have been addressed. EPA has no objection to the action as proposed.

ERP No. F–COE–E30033–FL, Martin County Beach Erosion Control Project, Implementation, Hutchison and Jupiter Islands, Martin County, FL.

Summary: EPA's evaluation of this document did not reveal any new information meriting additions to our original comments.

Note.—The above summary should have appeared in the 11–4–88 FR Notice.

ERP No. F–SFW–L64038–AK, Arctic National Wildlife Refuge, Comprehensive Conservation Plan, Wilderness Review and Wild River Plan, Implementation, AK.

Summary: EPA continues to have concerns regarding the uncertainty about the availability of adequate funding to fully implement the management directives of the preferred alternative.

ERP No. F–SFW–L64039–AK, Alaska Maritime National Wildlife Refuge, Comprehensive Conservation Plan and Wilderness Review, Implementation and Wilderness Recommendations, Forrester Island to near Barrow on the Arctic Ocean, AK.

Summary: Review of the final EIS has been completed and the project found to be satisfactory. No formal comments were sent to the agency.

ERP No. F–UAF–K52003–AZ, Sells Military Operations Area/Air Traffic Control Assigned Airspace, Supersonic Flight Operations Overlying Tohono O'Odham Indian Reservation and Organ Pipe Cactus National Monument, Continuation, Pima County, AZ.

Summary: EPA encouraged the Air Force, in its Record of Decision, to adopt the mitigation measures outlined in the final EIS. EPA asked to receive a copy of the ROD when it is issued.

Dated: November 7, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88–26131 Filed 11–9–88; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3475–2]

Environmental Impact Statements; Availability of Environmental Impact Statements Filed October 31, Through November 4, 1988

Responsible Agency: Office of Federal Activities, General Information (202) 382–5076 or (202) 382–5075.

EIS NO. 880359, DRevised, BLM, WY, Rock Springs District Wilderness Study Areas (WSAs), Wilderness Recommendations, Designation or Nondesignation, Fremont, Lincoln, Sublette and Sweetwater Counties WY, Due: December 19, 1988, Contact: Alan Stein (307) 382–5350.

EIS NO. 880366, Final, FHW, ME, Fore River Bridge/Million Dollar Bridge/ME–77 Rehabilitation or Replacement, Broadway in South Portland to York Street in Portland, Sections 10 and 404 Permits USCG Bridge Permit and Funding, Fore River, Cumberland Co., Due: December 12, 1988, Contact: William Richardson (202) 622–8487.

EIS NO. 880367, Final, SCS, KS, NB, Pony Creek Watershed Protection and Flood Prevention Plan, Funding and 404 Permits, Missouri River Basin, Brown and Nemaha Counties, KS and Richardson County, NB, Due: December 12, 1988, Contact: James N. Habiger (913) 823–4565.

EIS NO. 880368, Final, OSM, MT, Peabody Big Sky Coal Mine—Area B Expanded Operations Project, Plan Approval, Lee Coulee Drainge, Rosebud County, MT, Due: December 12, 1988, Contact: Floyd McMullen (303) 844–3104.

EIS NO. 880369, DRevised, COE, MS, Gulfort Harbor Deep Draft Navigation Project, Channel Improvements, Implementation, Garrison County, MS, Due: December 27, 1988, Contact: Susan Ivester Rees (205) 690–2724.

EIS NO. 880370, Draft, EPA, OR, Coquille Ocean Dredged Material Disposal Site (ODMDS) Designation in the Pacific Ocean off the mouth of the Coquille River, OR, Due: December 27, 1988, Contact: John Malek (206) 442–1286.

EIS NO. 880371, Draft, FHW, WA, WA–18 Improvements, Auburn-Black Diamond Road to I–90, Funding and 404 Permit, King County, WA, Due: December 27, 1988, Contact: P. C. Gregson (206) 753–2120.

EIS NO. 880372, Final, FHW, CA, I–5 and Santa Ana Freeway Widening and Interchanges Reconstruction, CA–22/57 Interchange to CA–55, Funding and 404 Permit, Orange County, CA, Due: December 12, 1988, Contact: C. Glenn Clinton (916) 551–1310.

EIS NO. 880373, DSuppl, USN, NC, Mid-Atlantic Electronic Warfare Range (WAEWR) Within Restricted Airspace R–5306A; Aircraft Noise Analysis, Beaufort, Carteret, Craven, Hyde and Pamlico Counties, NC, Due: December 7, 1988, Contact: Lt. Col. P. J. Lowery (919)(466–2343.

EIS NO. 880374, Draft, AFS, PA, Allegheny Wild and Scenic River Study, Allegheny River, Kinzua Dam to East Brady, Wild and Scenic River Designation, Armstrong, Butler, Clarion, Forest, Venango and Warren Counties, PA, Due: February 13, 1989, Contact: David J. Wright (814) 723–5150.

Dated: November 7, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88–26130 Filed 11–9–88; 8:45 am]

BILLING CODE 6560–50–M

[FRL–34748]

Environmental Health Committee; Science Advisory Board; Drinking Water Subcommittee; Opening Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the

Drinking Water Subcommittee of the Environmental Health Committee of the Science Advisory Board will be held on December 1–2, 1988, at the Governors House Hotel, Rhode Island Avenue at 17th Street NW., Washington, DC 20036. The meeting will be held from 9:00 a.m. to 5:00 p.m. on December 1st and 8:30 a.m. to noon on December 2nd.

The purpose of this meeting is to continue discussions with the Office of Drinking Water concerning disinfection and disinfection by-products and to review their activities involving pesticides.

The meeting will be open to the public. Any member of the public wishing to make a presentation at the meeting should forward a written statement to Dr. C. Richard Cothern, Executive Secretary, Science Advisory Board (A–101F), U.S. Environmental Protection Agency, Washington, DC 20460, or contact him on (202) 382–2552 by November 22, 1988. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. IN general, each individual or group making an oral presentation will be limited to a total time of 10 minutes.

Dated: November 4, 1988.

Donald Barnes,

Director, Science Advisory Board.

[FR Doc. 88–26058 Filed 11–9–88; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59855; FRL–3473–4]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of four such PMNs and provides a summary of each.

DATES: Close of Review Periods:

Y 89–12—November 1, 1988.

Y 89–13, 89–14—November 2, 1988.

Y 89–15—November 9, 1988.

FOR FURTHER INFORMATION CONTACT: Lawrence Culleen, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460 (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 89–12

Manufacturer. Minnesota Mining & Manufacturing Co. (3M)

Chemical. (S) 2-Propenoic acid; isoctyl-2-propenoate; octadecyl-2-methyl-2-propenoate; hexadecyl-2-methyl-propenoate eisosyl methacrylate; benzoyl peroxide.

Use/Production. (G) Polymeric additive. Prod. range: Confidential.

Y 89–13

Manufacturer. Confidential.

Chemical. (G) Functional polymer of mixed acrylate and methacrylate based monomers.

Use/Production. (G) Industrial coatings with open use. Prod. range: 277,500–555,000 kg/yr.

Y 89–14

Manufacturer. Confidential.

Chemical. (G) Polyurethane.

Use/Production. (G) Textile. Prod. range: Confidential.

Y 89–15

Manufacturer. Confidential.

Chemical. (G) Polyester of fatty acid alkanediol and alkanedioic acids.

Use/Production. (G) Plasticizer for polymeric materials. Prod. range: Confidential.

Date: October 26, 1988.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 88–25936 Filed 11–9–88; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51716; FRL–3473–7]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of two hundred twenty-six such PMNs and provides a summary of each:

DATES: Close of Review Periods:

P88–2101, 88–2102, 88–2103, 88–2104, 88–2105, 88–2106, 88–2107, 88–2108, 88–2110, 88–2112, 88–2113, 88–2114, 88–2115, 88–2116, 88–2117, 88–2119, 88–2120, 88–2121, 88–2122, 88–2123, 88–2124, 88–2125, 88–2126, 88–2127, 88–2128, 88–2129, 88–2130, 88–2132, 88–2133, 88–2134, 88–2135, 88–2136, 88–2137, 88–2138—December 18, 1988.

P88–2139, 88–2140, 88–2141, 88–2142, 88–2143, 88–2144, 88–2145, 88–2146, 88–2147, 88–2148, 88–2149, 88–2150, 88–21251, 88–2152, 88–2153, 88–2154, 88–2155—December 19, 1988.

P88–2156—December 21, 1988.

P88–2157, 88–2158—December 19, 1988.

P88–2159, 88–2160, 88–2161, 88–2162, 88–2163, 88–2164, 88–2165, 88–2166, 88–2167, 88–2168, 88–2169, 88–2170, 88–2171, 88–2172, 88–2173, 88–2174, 88–2175, 88–2176, 88–2177—December 20, 1988.

P88–2178, 88–2179, 88–2180, 88–2181, 88–2182, 88–2183, 88–2184, 88–2185, 88–2186, 88–2187, 88–2188, 88–2189, 88–2190, 88–2191, 88–2192, 88–2193, 88–2194—December 21, 1988.

88–2195, 88–2196, 88–2197, 88–2198, 88–2199, 88–2200, 88–2201, 88–2203, 88–2204, 88–2205, 88–2206, 88–2207, 88–2208—December 24, 1988.

P88–2209—December 19, 1988.

P88–2210, 88–2211, 88–2212, 88–2213, 88–2214, 88–2215, 88–2216, 88–2217, 88–2218, 88–2219, 88–2220, 88–2221, 88–2222, 88–2223, 88–2224, 88–2225, 88–2226, 88–2227, 88–2228, 88–2229, 88–2230, 88–2231, 88–2232, 88–2233, 88–2234, 88–2235, 88–2236, 88–2237, 88–2238, 878–2239—December 24, 1988.

P88–2240, 88–2241, 88–2242, 88–2243, 88–2244, 88–2245, 88–2246, 88–2247, 88–2248, 88–2249, 88–2250, 88–2251, 88–

2252, 88–2253, 88–2254, 88–2255, 88–2256, 88–2257, 88–2258, 88–2259, 88–2260, 88–2261, 88–2262, 88–2263, 88–2264, 88–2265, 88–2266, 88–2267, 88–2268, 88–2269, 88–2270, 88–2271, 88–2272, 88–2273, 88–2274, 88–2275, 88–2276, 88–2277, 88–2278, 88–2279, 88–2280, 88–2281, 88–2282, 88–2283, 88–2284, 88–2285, 88–2286, 88–2287, 88–2288, 88–2289, 88–2290, 88–2291, 88–2292, 88–2293, 88–2294, 88–2295, 88–2296, 88–2297, 88–2298, 88–2299, 88–2300, 88–2301, 88–2302, 88–2303, 88–2304, 88–2305, 88–2306, 88–2307, 88–2308, 88–2309—December 25, 1988.

P88–2310—December 27, 1988.

P88–2311, 88–2312, 88–2313, 88–2314, 88–2315, 88–2316, 88–2317, 88–2318, 88–2319, 88–2320, 88–2321, 88–2322, 88–2323, 88–2324, 88–2325, 88–2326, 88–2327, 88–2328, 88–2329, 88–2330.

Written comments by:

P88–2101, 88–2102, 88–2103, 88–2104, 88–2105, 88–2106, 88–2107, 88–2108, 88–2110, 88–2112, 88–2113, 88–2114, 88–2115, 88–2116, 88–2117, 88–2119, 88–2120, 88–2121, 88–2122, 88–2123, 88–2124, 88–2125, 88–2126, 88–2127, 88–2128, 88–2129, 88–2130, 88–2132, 88–2133, 88–2134, 88–2135, 88–2136, 88–2137, 88–2138—November 18, 1988.

88–2139, 88–2140, 88–2141, 88–2142, 88–2143, 88–2144, 88–2145, 88–2146, 88–2147, 88–2148, 88–2149, 88–2150, 88–2151, 88–2152, 88–2153, 88–2154, 88–2155—November 19, 1988.

P88–2156—November 21, 1988.

P88–2157, 88–2158—November 19, 1988.

P88–2159, 88–2160, 88–2161, 88–2162, 88–2163, 88–2164, 88–2165, 88–2166, 88–2167, 88–2168, 88–2169, 88–2170, 88–2171, 88–2172, 88–2173, 88–2174, 88–2175, 88–2176, 88–2177—November 20, 1988.

P88–2178, 88–2179, 88–2180, 88–2181, 88–2182, 88–2183, 88–2184, 88–2185, 88–2186, 88–2187, 88–2188, 88–2189, 88–2190, 88–2191, 88–2192, 88–2193, 88–2194—November 21, 1988.

P88–2195, 88–2196, 88–2197, 88–2198, 88–2199, 88–2200, 88–2201, 88–2202, 88–2203, 88–2204, 88–2205, 88–2206, 88–2207, 88–2208—November 24, 1988.

P88–2209—November 19, 1988.

P88–2210, 88–2211, 88–2212, 88–2213, 88–2214, 88–2215, 88–2216, 88–2217, 88–2218, 88–2219, 88–2220, 88–2221, 88–2222, 88–2223, 88–2224, 88–2225, 88–2226, 88–2227, 88–2228, 88–2229, 88–2230, 88–2231, 88–2232, 88–2233, 88–2234, 88–2235, 88–2236, 88–2237, 88–2238, 88–2239—November 24, 1988.

P88–2240, 88–2241, 88–2242, 88–2243, 88–2244, 88–2245, 88–2246, 88–2247, 88–2248, 88–2249, 88–2250, 88–2251, 88–2252, 88–2253, 88–2254, 88–2255, 88–2256, 88–2257, 88–2258, 88–2259, 88–2260, 88–2261, 88–2262, 88–2263, 88–2264, 88–2265, 88–2266, 88–2267, 88–2268, 88–2269, 88–2270, 88–2271, 88–2272, 88–2273, 88–2274, 88–2275, 88–2276, 88–2277, 88–2278, 88–2279, 88–2280, 88–2281, 88–2282, 88–2283, 88–2284, 88–2285, 88–2286, 88–2287, 88–2288, 88–2289, 88–2290, 88–2291, 88–2292, 88–2293, 88–2294, 88–2295, 88–2296, 88–2297, 88–2298, 88–2299, 88–2300, 88–2301, 88–2302, 88–2303, 88–2304, 88–2305, 88–2306, 88–2307, 88–2308, 88–2309—November 25, 1988.

P88–2310—November 27, 1988.

P88–2311, 88–2312, 88–2313, 88–2314, 88–2315, 88–2316, 88–2317, 88–2318, 88–2319, 88–2320, 88–2321, 88–2322, 88–2323, 88–2324, 88–2325, 88–2326, 88–2327, 88–2328, 88–2329, 88–2330—November 25, 1988.

ADDRESS: Written comments, identified by the document control number "[OPTS–51716]" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Rm. L–100, 401 M Street, SW., Washington, DC 20460, (2020) 554–1305.

FOR FURTHER INFORMATION CONTACT: Lawrence Cullen, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. 4:00 p.m., Monday through Friday, excluding legal holidays.

P 88–2101

Importer. Sherex Chemicals Company Inc.

Chemical. (G) Water reducible thereoplastic polyamide resin.

Use/Import. (G) Vehicle for flex inks. Import range: Confidential.

P 88–2102

Importer. Confidential.

Chemical. (G) Acetylated mixed aldehyde novolac.

Use/Import. (G) Coating component. Import range: Confidential.

P 88–2103

Importer. Confidential.

Chemical. (G) Fluorinated acrylic ester.

Use/Import. (G) Coatings. Import range: Confidential.

P 88–2104

Importer. Confidential.

Chemical. (G) Fluorinated acrylic ester copolymer.

Use/Import. (G) Fluorinated acrylic ester copolymer for coatings. Import range: Confidential.

P 88–2105

Importer. Confidential.

Chemical. (G) Fluorinated acrylic ester copolymer.

Use/Import. Fluorinated surface active agent for coatings. Import range: Confidential.

P 88–2106

Importer. Confidential.

Chemical. (G) Polybrominated aromatics modified with brominated epoxy resin.

Use/Import. (G) Flame retardant additives. Import range: Confidential.

P 88–2107

Importer. Confidential.

Chemical. (G) Glycidyl ether of substituted phenyl.

Use/Import. (G) Component of adhesive. Import range: Confidential.

P 88–2108

Importer. Confidential.

Chemical. (G) Glycidyl ether of substituted phenyl.

Use/Import. (G) Component of adhesives. Import range: Confidential.

P 88–2110

Importer. Confidential.

Chemical. (G) Naphthalene substituted diazo chromium complex alkali salt.

Use/Import. (S) Acid dye for textile. Import range: Confidential.

P 88–2112

Importer. Confidential.

Chemical. (G) Sulfonated naphthalene azo chromium complex.

Use/Import. (S) Acid dye for textile. Import range: Confidential.

P 88–2113

Chemical. Reilly Tar & Chemical Corporation.

Chemical. (S) Pyridine, 4-ethenyl-, polymer with diethenylbenzene and etheylethylbenzene, compound with chloromethane.

Use/Production. (S) Exchange resin. Prod. range: Confidential.

P 88–2114

Importer. Reilly Tar & Chemical Corporation.

Chemical. (G) Heterocyclic amine.

Use/Import. (G) Intermediate. Import range: Confidential.

P 88–2115

Manufacturer Reilly Tar & Chemical Corporation.
Chemical. (G) Heterocyclic N-Oxide.
Use/Productions. (G) Intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 1,100 mg/kg species(rat). Acute dermal toxicity: LD50 2–4 g/kgRabbit species(Rabbit).

P 88–2116

Importer. Confidential.
Chemical. (G) Polyoxyethylene phenylalkyl cresylether.
Use/Import. (G) Dispersant/ emulsifier. Import range: Confidential.

P 88–2117

Manufacturer. Confidential.
Chemical. (G) Polyester urethane-methacrylate blocked.
Use/Production. (S) Component of radiation elastomeric mold resins. Prod. range: 12,500–25,000 kg/yr.

P 88–2119

Manufacturer. Confidential.
Chemical. (G) Phosphorochloridic acid, dihexacosyl ester.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 88–2120

Importer. Huls America Inc.
Chemical. (G) Polyester resin of alkyldicarboxylic acids and alkyl diols.
Use/Import. (S) Prepolymer for manufacture of hot melt adhesive. Import range: Confidential.

P 88–2121

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Reactive dye for textiles. Import range: Confidential.

P 88–2122

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Reactive dye for textiles. Import range: Confidential.

P 88–2123

Importer. Atlantic Industries, Inc.
Chemical (G) Substituted aromatic azo compound.
Use/Import. (S) Reactive dye for textiles. Import range: Confidential.

P 88–2124

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Reactive dye for textiles. Import range: Confidential.

P 88–2125

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Reactive dye for textiles. Import range: Confidential.

P 88–2126

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Reactive dye for textiles. Import range: Confidential.

P 88–2127

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Reactive dye for textiles. Import range: Confidential.

P 88–2128

Manufacturer. Hercules Incorporation.
Chemical. (G) Alkyl amine rosinate.
Use/Production. (G) Manufacture of products for building construction. Prod. range: Confidential.

P 88–2129

Importer. Confidential.
Chemical. (G) Blocked polyurethane.
Use/Import. (G) Component of coating (open use). Import range: 14,000–28,000 kg/yr.

P 88–2130

Manufacturer. Confidential.
Chemical. (G) Epoxy urethane.
Use/Production. (g) Industrial product-dispersive use. Prod. range: 375,000–750,000 kg/yr.

P 88–2132

Manufacturer. Confidential.
Chemical. (G) Acid functional ester.
Use/Production. (G) Industrial coating-dispersive use. Prod. range: 6,400–84,000 kg/yr.

P 88–2133

Manufacturer. Confidential.
Chemical. (G) Functional acrylate.
Use/Production. (G) Industrial coating-dispersive use. Prod. range: 13,000–40,000 kg/yr.

P 88–2134

Manufacturer. Confidential.
Chemical. (G) Styrenated acrylic methacrylic amide polymer.
Use/Production. (S) Industrial vehicle-dispersive capability. Prod. range: 200–1500 kg/yr.

P 88–2135

Manufacturer. Confidential.
Chemical. (G) Substituted polyester.
Use/Production. (G) Coating-open, industrial use. Prod. range: 264,800–851,500 kg/yr.

P 88–2136

Manufacturer. Confidential
Chemical. (G) Substituted polyester.
Use/Production. (G) Coating-open, industrial use. Prod. range: 264,800–851,500 kg/yr.

P 88–2137

Manufacturer. Confidential.
Chemical. (G) Substituted polyester.
Use/Production. (G) Coating-open, industrial use. Prod. range: 264,800–851,500 kg/yr.

P 88–2138

Importer. Confidential.
Chemical. (G) Non-plasticized soft poly-vinylchloride; plasticizer-free poly-vinyochloride.
Use/Import. (G) Base material automobile. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >30,000 mg/kg species (Rat).

P 88–2139

Manufacturer. Confidential.
Chemical. (G) Iso octadecanioc acid glycol ester.
Use/Production. (G) Metal working compound. Prod. range: 160,000–170,000 kg/yr.

P 88–2140

Manufacturer. Confidential.
Chemical. (G) Salt of substituted arylazo butanamide.
Use-Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2141

Manufacturer. Confidential.
Chemical. (G) Salt of substituted arylazo butanamide.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2142

Manufacturer. Confidential.
Chemical. (G) Acrylate terpolymer.
Use/Production. (G) Thickner for aqueous mixtures (nondispersive). Prod. range: Confidential.

P 88–2143

Importer. Confidential.
Chemical. (S) Benzenesulfonic acid, 5-[(2-nitro-4-((phenylamino)sulfonyl)phenyl)amino)-2-(phenylamino)-, sodium salt.
Use/Import. (S) Dye for nylon fibers. Import range: Confidential.

P 88–2144

Manufacturer. Confidential.
Chemical. (G) Polyamino polyether.

Use/Production. (G) Coating—dispersive use. Prod. range: 700–1,000 kg/yr.

P 88–2145

Manufacturer. Confidential.
Chemical. (G) Acid functional polyester.
Use-Production. (G) Coating—dispersive. Prod. range: 12,000–30,000.

P 88–2146

Manufacturer. Confidential.
Chemical. (G) Styrenated methacrylic acrylic functionalized polymer.
Use/Production. (S) Binder Resin in industrial powder coating. Prod. range: 50,000–250,000 kg/yr.

P 88–2147

Manufacturer. Confidential.
Chemical. (G) Cycloalkylated polyester polyurethane.
Use/Production. (G) Industrial coating-dispersive use. Prod. range: 225,000–450,000 kg/yr.

P 88–2148

Manufacturer. Confidential.
Chemical. (G) Styrenated amino methylacrylic polymer.
Use/Production. (S) Topcoat resin for general industrial market. Prod. range: 10,000–125,000 kg/yr.

P 88–2149

Manufacturer. Confidential.
Chemical. (G) Polyester polymer with neopentyl glycol.
Use/Production. (G) Industrial coating—open use. Prod. range: 20,000–270,000 kg/yr.

P 88–2150

Manufacturer. Confidential.
Chemical. (G) Styrenated methacrylic functionalized polymer.
Use/Production. (S) Binder resin in industrial powder coating. Prod. range: 10,000–250,000 kg/yr.

P 88–2151

Manufacturer. Hi-Tek Polymers, Inc.
Chemical. (G) Polyester oligomer; reactive diluent.
Use/Production. (G) Intermediate. Prod. range: Confidential.

P 88–2152

Manufacturer. Hi-Tek Polymers, Inc.
Chemical. (G) High solids acrylic copolymer solution.
Use/Production. (G) Component of colorants, inks, coatings. Prod. range: Confidential.

P 88–2153

Manufacturer. Hi Tek Polymer, Inc.
Chemical. (G) Polyester oligomer; reactive diluent.
Use/Production. (G) Intermediate. Prod. range: Confidential.

P 88–2154

Manufacturer. NL Chemicals.
Chemical. (G) Urethane modified polyester.
Use/Production. (G) Urethane modified polyester (Open, nondispersive). Prod. range: Confidential.

P 88–2155

Manufacturer. Confidential.
Chemical. (G) Solvent-free baking alkyd.
Use/Production. (S) Baking finishes with urea and melamine resin. Prod. range: Confidential.

P 88–2156

Manufacturer. Hi-Tek Polymers, Inc.
Chemical. (G) High solids acrylic copolymer solution.
Use/Production. (G) Component of colorants, inks, coating. Prod. range: Confidential.

P 88–2157

Importer. Confidential.
Chemical. (G) Substituted carbomonocyclic carboxylic acid.
Use/Import. (G) Contained use in consumer product. Import range: 4,000–5,000 kg/yr.

P 88–2158

Manufacturer. Confidential.
Chemical. (G) Substituted xanthene.
Use/Production. (G) Dye. Prod. range: Confidential.

P 88–2159

Importer. Sherex chemical Company, Inc.
Chemical. (G) Polyglycol diepoxide.
Use/Import. (S) Reactive diluent. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 7,400 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 88–2160

Manufacturer. Alco Chemical Corporation.
Chemical. (G) Alco corrosion inhibitor, QDT.
Use/Production. (G) Industrial corrosion inhibitor. Prod. range: Confidential.

P 88–2161

Importer. Shin-Etsu Silicones of America, Inc.
Chemical. (G) Organopolysiloxane.
Use/Import. (S) Determining surfactant for polyurethane foam. Import range: 1,000–2,000 kg/yr.

P 88–2162

Manufacturer. Confidential.
Chemical. (G) urethane modified acid functional polyester.
Use/Production. (S) Crosslinker automotive topcoats. Prod. range: 100,000–100,000 kg/yr.

P 88–2163

Manufacturer. Confidential.
Chemical. (G) Neutralized aliphatic aromatic polyester.
Use/Production. (G) Polymer with open use. Prod. range: 100,000–300,000 kg/yr.

P 88–2164

Manufacturer. Confidential.
Chemical. (G) Neutralized aliphatic polyester.
Use/Production. (G) Polymer with open use. Prod. range: 100,000–300,000 kg/yr.

P 88–2165

Manufacturer. Confidential.
Chemical. (G) Neutralized aliphatic aromatic polyester.
Use/Production. (G) Polymer with open use. Prod. range: 100,000–300,000 kg/yr.

P 88–2166

Importer. Confidential.
Chemical. (S) Siloxanes and silicones, dimethyl, polymers with silsesquionanes, hydroxy-terminated, reaction products with methyltris(ethylketoxime silane and trimethoxy(3-(oxiranylmethoxy)propyl)silane.
Use/Import. (G) Coating material for metal particles. Import range: 1,200–2,500 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 88–2167

Importer. Confidential.
Chemical. (S) Siloxanes and silicones, dimethyl, polymers with methyl silsesquioxanes, hydroxyterminated, reaction products with methyltris(ethylmethylketoxime) silane, trimethoxy (3-(oxiranylmethoxy)propyl) silane and (3-anilinopropyl) trimethoxysilane.
Use/Import. (S) Coating material for metal particles. Import range: 2,000–3,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 88–2168

Importer. Confidential.

Chemical. (S) Siloxanes and silicones, dimethyl, polymers with methy silsesquioxanes, hydroxyterminated, reaction, reaction products with hydroxy-terminated dimethylsiloxanes, methyltris(ethylmethylketoxime)silane,trimethoxy[3-(oxiranylmethoxy)propyl]silane and ethenyltriacetoxysilane.

Use/Import. (S) Coating material for particles. Import range: 1,200-2,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 88–2169

Manufacturer. Baker Performance Chemical Incorporation.

Chemical. (G) Cationic terpolymer of acrylamide.

Use/Production. (S) Water clarification. Prod. range: Confidential.

P 88–2170

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.

Chemical. (G) Aminoacrylate polymer.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88–2171

Importer. Rhone-Poulenc Incorporated.

Chemical. (G) Hexamethylenediamine/adipic acid/dimer acid copoplyamide.

Use/Import. (G) Thermoplastic polymer for manufacture of articles. Import range; Confidential.

P 88–2172

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Unsaturated polyester resin.

Use/Production. (S) Coat base resin. Prod. range: Confidential.

P 88–2173

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Unsaturated polyester resin.

Use/Production. (S) Polyester gel coat resin. Prod. range: Confidential.

P 88–2174

Importer. Confidential.

Chemical. (G) Substituted naphthalene diazo alkali salt.

Usee/Import. (G) Acid dye for textile. Import range: Confidential.

P 88–2175

Manufacturer. Lonza Inc.

Chemical. (G) Polyethylene glycol, fatty acid esters of.

Use/Production. (G) Additive for plastic. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat).

P 88–2176

Importer. E.I. du Pont de Nemours & Co., Inc.

Chemical. (G) Polyester glycol.

Usee/Import. (S) Polymers intermediate. Import range: Confidential.

P 88–2177

Manufacturer. E.I. du Pont de Nemours & Co., Inc.

Chemical. (G) Hydrochlorofluoro alkane.

Usee/Production. (S) Polymer intermediate. Prod. range: Confidential.

P 88–2178

Importer. Henkle Corporation Process Chemicals.

Chemical. (G) Phthalic ester.

Use/Import. (S) Plasticizer for laquers and paints. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat).

P 88–2179

Manufacturer. Henkel Corporation.

Chemical. (G) Aliphatic epoxy monomer.

Use/Production. (G) Coating. Prod. range: Confidential.

P 88–2180

Manufacturer. Henkel Corporation.

Chemical. (G) Aliphatic epoxy monomer.

Use/Production. (G) Coating. Prod. range: Confidential.

Toxicity Data. Skin irritation: slight species (Rabbit).

P 88–2181

Manufacturer. Henkel Corporation.

Chemical. (G) Aliphatic epoxy monomer.

Use/Production. (G) Coatings. Prod. range: Confidential.

P 88–2182

Manufacturer. Confidential.

Chemical. (G) Aliphatic epoxy monomer.

Use/Production. (S) Oil geller for well drilling fluids. Prod. range: 18,530–27,818 kg/yr.

P 88–2183

Manufacturer. Confidential.

Chemical. (G) Polyamide modified acrylic resin.

Use/Production. (G) Coatings and inks. Prod. range: Confidential.

P 88–2184

Manufacturer. Confidential.

Chemical. (G) Polyamide modified acrylic resin.

Use/Production. (G) Coatings and inks. Prod. range: Confidential.

P 88–2185

Importer. Confidential.

Chemical. (S) Ethaneperoxoic acid, reaction products with aluminium isoprop-oxide and 1,5,10-trimethyl-1,5,9-cyclododecatrien.

Usee/Import. (S) Dispersive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >2,000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: positive.

P 88–2186

Manufacturer. E.A. Abbot.

Chemical. (G) Amino siloxane.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 >2,000 mg/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 88–2187

Manufacturer. The Goodyear Tire & Rubber Company.

Chemical. (G) Substituted carboxylic acid alkane diol polyester.

Use/Production. (S) Containers and packaging. Prod. range: 14,000–375,000 kg/yr.

P 88–2188

Manufacturer. Henkel Corporation.

Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-hydro-omega-(oxiranylmethoxy)-ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1).

Use/Production. (G) Coating. Prod. range: Confidential.

Toxicity Data. Skin irritation: negligible species (Rabbit).

P 88–2189

Manufacturer. NL Chemicals.

Chemical. (G) Water dispersable polyamide resin.

Use/Production. (G) Ink additive. Prod. range: Confidential.

P 88–2190

Manufacturer. NL Chemical.

Chemical. (G) Water dispersable polyamide resin.

Use/Production. (G) Ink additive. Prod. range: Confidential.

P 88–2191

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Aryl alkyl copolyamide.
Use/Production. (G) Membrane. Prod. range: Confidential.
Toxicity Data. Skin irritation: negligible species (Rabbit).

P 88–2192

Manufacturer. Confidential.
Chemical. (G) Pyradine derivative.
Use/Production. (G) Colorant. Prod. range: Confidential.
Toxicity Data. Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 88–2193

Manufacturer. Confidential.
Chemical. (G) Substituted carboxylic acid, alkane diol polyester.
Use/Production. (G) Coating. Prod. range: Confidential.

P 88–2194

Manufacturer. The Goodyear Tire & Rubber.
Chemical. (G) Substituted carboxylic acid, alkane diol polyester.
Use/Production. (S) Containers, packing, light guage sheeting. Prod. range: 14,000–500,000 kg/yr.

P 88–2195

Manufacturer. Wayne Pigment Corp.
Chemical. (G) Chrome yellow light.
Use/Production. (S) Plastics, inks, & coatings manufacture. Prod. range: Confidential

P 88–2196

Importer. Confidential.
Chemical. (G) Bis-(hydroxy-alkylphenyl)sulfide.
Use/Import. (G) Paper coating component. Import range: Confidential.

P 88–2197

Manufacturer. Confidential.
Chemical. (G) Polyurethane resin.
Use/Production. (G) Coatings. Prod. range: Confidential.

P 88–2198

Manufacturer. Confidential.
Chemical. (G) Polyurethane resin.
Use/Production. (G) Coatings. Prod. range: Confidential.

P 88–2199

Manufacturer. Confidential.
Chemical. (G) Polyurethane resin.
Use/Production. (G) Coatings. Prod. range: Confidential.

P 88–2200

Manufacturer. Confidential.
Chemical. (G) Polyester.
Use/Production. (S) Spray allied coatings. Prod. range: Confidential.

P 88–2201

Importer. Confidential.
Chemical. (G) Carboxy functional acrylic resin.
Use/Import. (S) Temporary coatings. Import range: Confidential.

P 88–2202

Manufacturer. Confidential.
Chemical. (G) cationic polyamine.
Use/Production. (G) Dispersive. Prod. range: Confidential.

P 88–2203

Manufacturer. Confidential.
Chemical. (G) Epichlorohydrin/amine polymer.
Use/Production. (G) Dispersive. Prod. range: Confidential.

P 88–2204

Importer. Huls America Inc.
Chemical. (S) Malonic acid, n-butyl-, diethyl ester.
Use/Imports. (G) Coatings for metal. Import range: Confidential.

P 88–2205

Manufacturer. Huls America Inc.
Chemical. (S) Bis(trimethoxysilylpropyl)disulfide.
Use/Production. (S) Coupling. Prod. range: Confidential.

P 88–2206

Manufacturer. Dow Chemical U.S.A.
Chemical. (G) Styrene/butadine polymer.
Use/Production. (S) Cement/concrete modifier. Prod. range: Confidential.

P 88–2207

Manufacturer. Confidential.
Chemical. (S) Tall oil fatty acides, pentaerythritol, benzoic acid, maleic anhydride, chlorendic anthydride alkyd resin.
Use/Production. (S) Component of coatings. Prod. range: Confidential.

P 88–2208

Manufacturer. Confidential.
Chemical. (S) Vegetable oil, pentaerythritol, benzoic acid, maleic anhydride, chlorendic anthydride alkyd resin.
Use/Production. (S) Component of coatings. Prod. range: Confidential.

P 88–2209

Importer. Confidential.
Chemical. (G) Carbamodithioc acid. ethylphenyl,- lead (2+) salt.
Use/Import. (S) Vulcanization accelerator. Import range: Confidential.

P 88–2210

Manufacturer. Confidential.
Chemical. (G) Alpha olefin sulfonated, sodium salt.
Use/Production. (S) Oil field and cleaning surfactant. Prod. range: Confidential.

P 88–2211

Manufacturer. Confidential.
Chemical. (G) Alpha olefin sulfonate, calcium salt.
Use/Production. (G) Additive for food cleaning & energy industries. Prod. range: Confidential.

P 88–2212

Manufacturer. Confidential.
Chemical. (G) Alkyl disulfonated, diammonium salt.
Use/Production. (G) Additive for cleaning & energy industries. Prod. range: Confidential.

P 88–2213

Manufacturer. Confidential.
Chemical. (G) Alkyl disulfonated, disodium salt.
Use/Production. (G) Additive for cleaning & energy industries. Prod. range: Confidential.

P 88–2214

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic surfactant, potassium salt.
Use/Production. (G) Additive in cleaning formulation. Prod. range: Confidential.

P 88–2215

Manufacturer. Confidential.
Chemical. (G) Alpha olefin sulfonate, sodium salt.
Use/Production. (G) Additive in cleaning & energy industries. Prod. range: Confidential.

P 88–2216

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic surfactant, triethanolamine salt.

Use/Production. (G) Additive in cleaning & energy industries. Prod. range: Confidential.

P 88–2218

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic surfactant, sodium salt.
Use/Production. (G) Additive in cleaning formulations. Prod. range: Confidential.

P 88–2219

Manufacturer. Confidential.
Chemical. (G) Alpha olefin sulfonate, magnesium salt.
Use/Production. (G) Additive in food, industrial & energy production. Prod. range: Confidential.

P 88–2220

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic surfactant, potassium salt.
Use/Production. (G) Additive in cleaning formulation. Prod. range: Confidential.

P 88–2221

Manufacturer. Confidential.
Chemical. (G) Alpha olefin sulfonate, calcium salt.
Use/Production. (G) Additive in food and energy industries. Prod. range: Confidential.

P 88–2222

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic sufactant, triethanolamine salt.
Use/Production. (G) Additive in cleaning formulations. Prod. range: Confidential.

P 88–2223

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic surfactant, calcium salt.
Use/Production. (G) Additive in cleaning formulation. Prod. range: Confidential.

P 88–2224

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic surfactant, calcium salt.
Use/Production. (G) Additive in cleaning formulations. Prod. range: Confidential.

P 88–2225

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Ethylene interpolymer.
Use/Production. (G) Molded and extruded parts. Prod. range: Confidential.

P 88–2226

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Ethylene interpolymer.
Use/Production. (G) Molded and extruded parts. Prod. range: Confidential.

P 88–2227

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic surfactant, magnesium salt.
Use/Production. (G) Additive in cleaning formulations. Prod. range: Confidential.

P 88–2228

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic surfactant, potassium salt.
Use/Production. (G) Additive in cleaning formulations. Prod. range: Confidential.

P 88–2229

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated nonionic surfactant, sodium salt.
Use/Production. (G) Additive in cleaning formulations. Prod. range: Confidential.

P 88–2230

Manufacturer. Confidential.
Chemical. (G) Alpha olefin sulfonated, amine salt.
Use/Production. (G) Additive and energy production. Prod. range: Confidential.

P 88–2231

Manufacturer. Confidential.
Chemical. (G) Alkylbenzene sulfonic acid.
Use/Production. (G) Additive in industrial products. Prod. range: Confidential.

P 8–2232

Manufacturer. Confidential.
Chemical. (G) Cocoamine condensate salt.
Use/Production. (G) Additive for energy production industries. Prod. range: Confidential.

P 88–2233

Manufacturer. Confidential.
Chemical. (G) Alpha olefin sulfonate, ammonium salt.
Use/Production. (G) Additive in food and energy production. Prod. range: Confidential.

P 88–2234

Manufacturer. Confidential.
Chemical. (G) Carboxylated nonionic surfactant, magnesium salt.
Use/Production. (G) Additive in food and energy production. Prod. range: Confidential.

P 88–2235

Manufacturer. Confidential.
Chemical. (G) Alpha olefin sulfonated, sodium salt.
Use/Production. (G) Additive in food, cleaning & energy production. Prod. range: Confidential.

P 88–2236

Manufacturer. Confidential.
Chemical. (G) Alkyl disulfonate, disodium salt.
Use/Production. (G) Additive in cleaning & energy production. Prod. range: Confidential.

P 88–2237

Manufacturer. Confidential.
Chemical. (G) Alkyl benzene sulfonic acid, sodium salt.
Use/Production. (G) Emulsifier. Prod. range: Confidential.

P 88–2238

Manufacturer. Amoco Corporation.
Chemical. (G) Polyalkenylheterocyclic amine.
Use/Production. (G) Lubricant additive. Prod. range: Confidential.

P 88–2239

Manufacturer. Amoco Corporation.
Chemical. (G) Aromatic amide-imide polymer.
Use/Production. (G) Protective coating. Prod. range: Confidential.

P 88–2240

Manufacturer. Confidential.
Chemical. (G) Organo silane.
Use/Production. (G) Coating for plastic films. Prod. range: Confidential.

P 88–2241

Manufacturer. Reilly Tar & Chemical Corporation.
Chemical. (G) Heterocyclic amine salt.
Use/Production. (G) Intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (Rat).

P 88–2242

Manufacturer. Confidential.
Chemical. (G) Hydrogenated fatty acid alkyd.
Use/Production. (G) Polymer component of metal coating. Prod. range: Confidential.

P 88–2243

Manufacturer. Confidential.
Chemical. (G) Alkenes, reaction products with 2,5-furandione.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 88–2244

Manufacturer. Confidential.
Chemical. (G) Alkenes reaction products with 2,5-furandione.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 88–2245

Manufacturer. Confidential.
Chemical. (G) Alkenes reaction products with 2,5-furandione.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 88–2246

Manufacturer. Confidential.
Chemical. (G) Sulfonated polyacrylate, mixed ammonium sodium salt.
Sulfonated polyacrylated, ammonium salt.
Use/Production. (S) Dispersant. Prod. range: Confidential.

P 88–2247

Manufacturer. Confidential.
Chemical. (G) Sulfonated polyacrylate, mixed ammonium sodium salt.
Sulfonated polyacrylated, ammonium salt.
Use/Production. (S) Dispersant. Prod. range: Confidential.

P 88–2248

Manufacturer. Confidential.
Chemical. (G) Sulfonated polyacrylkate, mixed ammonium sodium salt.
Sulfonated polyacrylated, ammonium salt.
Use/Production. (S) Dispersant. Prod. range: Confidential.

P 88–2249

Manufacturer. Confidential.
Chemical. (G) Sulfonated polyacrylkate, mixed ammonium sodium salt.
Sulfonated polyacrylated, ammonium salt.
Use/Production. (S) Dispersant. Prod. range: Confidential.

P 88–2250

Manufacturer. Confidential.
Chemical. (S) Polyester resin.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 88–2251

Manufacturer. Confidential.
Chemical. (G) Alkyl disulfonate, disodium salt.
Use/Production. (G) Additive in cleaning & energy industries. Prod. range: Confidential.

P 88–2252

Manufacturer. Confidential.
Chemical. (G) Polyurethane.
Use/Production. (S) Epoxy allied coatings. Prod. range: Confidential.

P 88–2253

Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (S) Epoxy allied coatings. Prod. range: Confidential.

P 88–2254

Manufacturer. Confidential.
Chemical. (G) Starch graft compolymer latex.
Use/Production. (S) Binder textile treatment, sheet additive, adhesive. Prod. range: 68,000–455,000 kg/yr.

P 88–2255

Manufacturer. Confidential.
Chemical. (G) Starch graft copolymer latex.
Use/Production. (S) Binder, additive, adhesive, textile treatment. Prod. range: 68,000–455,000 kg/yr.

P 88–2256

Manufacturer. Confidential.
Chemical. (G) Acryliated alkyd.
Use/Production. (S) Coating for metal. Prod. range: Confidential.

P 88–2257

Manufacturer. Confidential.
Chemical. (G) Alkoxypolyalkoxysulfo compounds with polyalkanolamine.
Use/Production. (G) Production of leveling agents. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 2,000 mg/yr species (mouse). Eye irritation: none species (Rabbit). Skin irritation: moderate species (Rabbit).

P 88–2258

Manufacturer. Confidential.
Chemical. (G) Alkenyl heteromonocyclicones polymer with alkenylalkoate.
Use/Production. (S) Binder in transfer printing. Prod. range: Confidential.
Toxicity Data. Eye irritation: none species (Rabbit). Skin irritation: moderate species (Rabbit).

P 88–2259

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Halogenated aromatic acid chloride.
Use/Production. (S) Monomer, destructive use. Prod. range: Confidential.
Toxicity Data. Eye irritation: strong species (Rabbit). Skin irritation: strong species (Rabbit).

P 88–2260

Manufacturer. Chattem Chemicals.
Chemical. (G) Cobalt aluminum organometallic compound.
Use/Production. (S) Acid dye for textile. Prod. range: Confidential.

P 88–2261

Importer. Confidential.
Chemical. (G)1,2,4 Benzotriazine sulfonic acid alkali salt.
Use/Import. (S) Acid dye for textile. Import. range: Confidential.

P 88–2262

Manufacturer. Lynad Division; Colloids, Inc.
Chemical. (G) Guar gum 2-hydroxpropyl ether, glyoxal-crosslinked.
Use/Production. (G) Mater gel expolsive plant nuturient. Prod. range: 5,000–250,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species (rat).

P 88–2263

Manufacturer. Ethyl Corporation.
Chemical. (G) Partially fluorinated polyimide.
Use/Production. (S) Coating, molding, plastic composites. Prod. range: Confidential.

P 88–2264

Importer. DSM Resins U.S.A., Inc.
Chemical. (G) Saturated polyester resin.
Use/Import. (G) Coatings for metal. Import range: Confidential.

P 88–2265

Importer. DSM Resins U.S.A., Inc.
Chemical. (G) Acrylic modified saturated polyester resin.
Use-Import. (G) Coatings for metal. Import range: Confidential.

P 88–2266

Importer. DSM Resins U.S., Inc.
Chemical.(G) Acrylic modified saturated polyester resin.
Use/Import. (G) Formulation of coatings for metal. Import range: Confidential.

P 88–2267

Importer. DSM Resins U.S., Inc.
Chemical. (G) Saturdated polyester resin modified with phenolic resin.
Use/Import. (G) Formulation of coatings for metal. Import range: Confidential.

P 88–2268

Importer. Confidential.
Chemical. (G) Substituted oxindole.
Use/Import. (S) Pharmaceutical intermediate. Import range: Confidential.

P 88–2269

Importer. Confidential.
Chemical. (G) Substituted triazin. azo. alkali salt.
Use/Import. (S) Reactive dye for textile. Import range: Confidential.

P 88–2270

Manufacturer. Reichhold Chemical
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Resin for exterior coatings. Prod. range: Confidential.

P 88–2271

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Urethane acrylate.
Use/Production. (S) Resin for UV curable paints. Prod. range: Confidential.

P 88–2272

Importer. Confidential.
Chemical. (G) Substituted benzene, mono azo dye.
Use/Import. (S) Dye for textile. Import range: Confidential.

P 88–2273

Importer. Confidential.
Chemical. (G) Substituted naphthalene, diazo chromium complex.
Use/Import. (S) Dye for textile. Import range: Confidential.

P 88–2274

Manufacturer: Reilly Tar & Chemicals Corporation.
Chemical. (G) Polymeric amine.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 88–2275

Manufacturer. Quantum Chemical Corp.
Chemical. (G) Hydrogenated oigomers of c6 to c14 olefins.
Use/Production. (S) Motor oil, gear lube, hydraulic oil. Prod. range: 79MM gk/yr.
Toxicity Data. Acute oral toxicity: LD50 5.0 g/kg species (Rat). Inhalation toxicity: LC50 4.68 mg/1 1 hr. Eye irritation: none species(Rabbit). Skin irritation: moderate species(Rabbit).

P 88–2276

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Rosin phenolic modified alkyd.
Use/Production. (S) Air dry primer and coatings. Prod. range: Confidential.

P 88–2277

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Chlorinated polypropylene Modified acrylic copolymer.
Use/Production. (S) Coatings for thermoplastics. Prod. range: Confidential.

P 88–2278

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Long oil alkyd.
Use/Production. (S) Air dry primer, coating, enamel. Prod. range: Confidential.

P 88–2279

Manufacturer. Confidential.
Chemical. (G) Substituted 3H-pyrazol-3-one-4-(2-metnhyl phenyl)azo)-2,4-dihydro-5-methyl-2-(2-chlorophenyl.
Use/Production. (S) Dye for textile. Prod. range: Confidential.

P 88–2280

Manufacturer. Confidential.
Chemical. (G) Alkyl substituted xanthene.
Use/Production. (G) Dye. Prod. range: Confidential.

P 88–2281

Manufacturer. Confidential.
Chemical. (G) Polymer of an aromatic diisocyanate, aliphatic diols, a diepoxide and an aliphatic diamine.
Use/Production. (G) Laminating adhesive. Prod. range: Confidential.

P 88–2282

Manufacturer. Ethyl Corporation.
Chemical. (G) Partially fluorinated polyamide.
Use/Production. (S) Fabricating composite parts. Prod. range: Confidential.

P 88–2283

Manufacturer. Confidential.
Chemical. (G) Polyester polyol.
Use/Production. (S) Polyester polyol. Prod. range: 6,100–20,400 kg/yr.

P 88–2284

Manufacturer. Ethyl Corporation.
Chemical. (G) Partially fluorinated polyimide.
Use/Production. (S) Surface coating, molding. Prod. range: Confidential.

P 88–2285

Manufacturer. Ethyl Corporation.
Chemical. (S) 1-Triacontene internal decene, tetradecenes, docosenes, hexacosenes, octocosene, and triacontenses.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 88–2286

Manufacturer. Ethyl Corporation.
Chemical. (S) 1-Triacontenes; linera internal decenes, tetradecenes, docosenes, tetracosenes, hexacosenes, octacosenes, & triacontenes.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 88–2287

Manufacturer. Confidential.
Chemical. (G) Acrylourethane.
Use/Production. (G) Coating (non-dispersive use). Prod. range: Confidential.

P 88–2288

Manufacturer. Ethyl Corporation.
Chemical. (G) Partially fluorinated polyimide.
Use/Production. (S) Surface coating, plastic composite, molding. Prod. range: Confidential.

P 88–2289

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester.
Use/Production. (G) Thermoset molding resin. Prod. range: 172,517–517,600 kg/yr.

P 88–2290

Manufacturer. Confidential.
Chemical. (G) Modified zinc resinate.
Use/Production. (G) Additive for resins. Prod. range: Confidential.

P 88–2291

Manufacturer. Confidential.
Chemical. (G) Alkylbenzene.
Use/Production. (G) Destructive use. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (Rat).

P 88–2292

Manufacturer. Confidential.
Chemical. (G) Alkylbenzene sulfonic acid.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 88–2293

Manufacturer. Quantum Chemical Corp, Emery Division.
Chemical. (G) Anhydrosorbitol esters with octanoic acid.
Use/Production. (S) Intermediate, surfactant. Prod. range: Confidential.

P 88–2294

Manufacturer. Ethyl Corporation.
Chemical. (S) Branched hexenes, octenes, decenes, dodecenes, tetradecenes, hexadecenes, octadecenes, eicosense, docosenes, tetracosenes, hexacosenes, octacosenes and acontens.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD 50 >10 g/kg species(Rat). Acute dermal toxicity: LD 50 >10 g/kg species

(Rabbit). Inhalation toxicity: LC50 33,400 ppm 4 hr. species(Rats).

P 88–2295

Manufacturer. Ethyl Corporation.

Chemical. (S) Branched hexenes, octenes, decenes, dodecenes, tetradecenes, hexadecenes, octadecenes, eiocosenes, docosenes, tetracosenes, hexacosenes, octacosenes and triacontenes.

Use/Production. (G) Chemical intermediates. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD 50 >10 g/kg species (Rat). Acute dermal toxicity: LD 50 >10 g/kg species (Rabbit). Inhalation toxicity: LC50 33,400 ppm 4hr. species (Rats).

P 88–2296

Manufacturer. Confidential.

Chemical. (S) Phenol, formaldehyde,methyl d-glucopyranoside.

Use/Production. (S) Thermosetting binder. Prod. range: Confidential.

P 88–2297

Manufacturer. Confidential.

Chemical. (S) Phenol; formaldehyde,ethylene glycol,cresol.

Use/Production. (S) Thermosetting binder. Prod. range: Confidential.

P 88–2298

Manufacturer. Confidential.

Chemical. (S) Phenol, formaldehyde,propylene glycol,cresol.

Use/Production. (S) Thermosetting binder. Prod. range: Confidential.

P 88–2299

Manufacturer. Confidential.

Chemical. (G) Ammonium salt of carboxy functional acrylic polymer.

Use/Production. (S) Temporary coating. Prod. range: Confidential.

P 88–2300

Manufacturer. Confidential.

Chemical. (G) Alkoxysilane terminated polyesther polymer.

Use/Production. (S) Polymer for adhesives & sealants. Prod. range: 200,000–750,000 kg/yr.

P 88–2301

Manufacturer. Products Research & Chemical Corporation.

Chemical. (G) Coluene diisocyanate terminated polyether urethane.

Use/Production. (S) Polymer for sealants, adhesives & encapsulants. Prod. range: 51,000–100,000 kg/yr.

P 88–2302

Manufacturer. Confidential.

Chemical. (G) Alkoxysilane terminated polyether polymer.

Use/Production. (S) Polymer for adhesive & sealants. Prod. range: 200,000–750,000 kg/yr.

P 88–2303

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polymer of: polyether polyol, toluene diisocyanate, and 2-propen-1-ol; polymer of: poly(oxy(methyl-1,2-ethanediyl)),alpha, alpha'-(1-methyl-1,2-ethanediyl)bis(omega-hydroxy-,toluene diisocyante, 2-propen-1-ol; ethanethiol 2,2'-(1,2-ethanediyl bis(oxy.

Use/Production. (S) Polymer for sealants/adhesives. Prod. range: 700,000–1,000,000 kg/yr.

P 88–2304

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polymer of: oxirane, methyl-, polymer with oxirane, ether with 1,2,3-propanetriol-toluene diisocyanate and 2-propen-1-ol Polymer of;.

Use/Production. (S) Polymer for manufacturer of sealants & adhesives. Prod. range: 200,000–400,000 kg/yr.

P 88–2305

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polymer of: Oxirane, methyl-, polymer with oxirane ether with 1,2,3-propanetriol-toluene diisocyanate and 2-propen-1-ol; Polymer of: poly(oxy(methyl-1,2-ethanediyl), alpha alpha-(1-methyl-1,2-ethanediyls)bis(omega-hydroxy-, toluene diisocyanate and 10-propen-1-ol.

Use/Production. (S) Polymer for sealants & adhesives. Prod. range: 200,000–400,000 kg/yr.

P 88–2306

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Poly(oxy(methyl-1,2-ethanediyl)). alpha, alpha'-(methyl-1,2-ethanediyl)bis; (omega-hydroxy- toluene diisocyante; 2-propen-1-ol.

Use/Production. (S) Intermediate for polymer production. Prod. range: 550,000–800,000 kg/yr.

P 88–2307

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) 4,7-diamino-9-hydroxy-11-oxa-1,14-bis(trimethoxysily) tetradecane.

Use/Production. (S) Adhesive promoter. Prod. range: 1,750–3,000 kg/yr.

P 88–2308

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polymer of: Oxirane, methyl-, polymer with oxirane, either with 1,2,3-propanetririol-, toluene diisocyante and 2-propen-ol: poylmer of: Poly(oxy(methyl-1,2-ethanediyl)- alpha, alpha'-(1-methyl-1,2-ethanediyl)bis(omega-hydroxy, toluene diisocyante, and 2-propen-1-ol: ethanthiol, 2,2,'-(1,2 ethanediyl B.

Use/Production. (S) Polymer for sealants & adhesives. Prod. range: 700,000–1,000,000 kg/yr.

P 88–2309

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Oxirane methyl, polymer with oxirane, ether with 1,2,3-propanetriol-; toluene diisocyanate; 2-propen-1-ol.

Use/Production. (S) Intermediate for polymer production. Prod. range: 500,000–800,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species (Rat).

P 88–2310

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polymer of: Oxirane, methyl-, polymer with oxirane, ether with 1,2,3-propanetriol-, toluene and 2-propen-1-ol; Poly(oxomethyl-1,2-ethanediyl) alpha-hydro-omega-hydroxy-, toluene diisocyante, and 2-propen-1-ol.

Use/Production. (S) Polymer for sealants & adhesives. Prod. range: 7,000,000–1,000,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species (Rat).

P 88–2311

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polymer of: Polyester polyol, Toluene diisocyanate and 2-propen-1-ol; Poly(oxy(methyl-1,2-ethanedyl, alpha-hydro-omega-hydroxy-toluene diisocyanate, and 2-propen-1-ol.

Use/Production. (S) Polymer for sealants & adhesives. Prod. range: 700,000–1,000,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species(Rat).

P 88–2312

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polymer of: Polyether polyol; toluene diisocyanate, and 2-propen-1-ol; Polymer of: Poly(oxy(methyl-1;2-ethanediyl, alpha, alpha'-(1-methyl-1, 2-ethanediyl)bis (omega-hdroxy-, toluene diisocyanate and 2-propen-1-ol.

Use/Production. (S) Polymer for sealants & adhesives. Prod. range: 200,000–400,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >16 g/kg species(RAT).

P 88–2313

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Poly(oxy(methyl-1,2-ethanediyl), alpha-hydro-omega-hydro-; toluene diisocyanate; 2-propen-1-ol.

Use/Production. (S) Intermediate for polymer production. Prod. range: 550,000–800,000 kg/yr.

P 88–2314

Manufacturer. Products Research & Chemical Corporation.

Chemical. (G) Ethanethiol, 2,2'thiobis-.

Use/Production. (S) Polymer for sealants & adhesives. Prod. range: 200,000–400,000 kg/yr.

P 88–2315

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polyether polyol; toluene diisocyanate; 2-propen-1-ol.

Use/Production. (S) Intermediate for polymer production. Prod. range: 500,000–800,000 kg/yr.

P 88–2316

Manufacturer. Confidential.

Chemical. (G) Substituted alkenoic amide polymer with alkylalkenoates.

Use/Production. (G) Pigment binder. Prod range: Confidential.

P 88–2317

Manufacturer. Confidential.

Chemical. (G) Alkenoic acid polymer with alkyalkenoate, carbomonocyclic alkene and alkyl alkenamide, compound with alkylaminoalkanol.

Use/Production. (S) Enhances binding properties of pigments. Prod. range: Confidential.

P 88–2318

Manufacturer. Confidential.

Chemical. (G) polymer from: polyester polyol with alkyl and carbomon-cyclic cyanates and salt of aminoalkenoic acid.

Use/Production. (S) Leather fininshing. Prod. range: Confidential.

Toxicity Data. Inhalation toxicity: LC50 50 mg/1 species (Golden orfe).

P 88–2319

Manufacturer. Confidential.

Chemical. (G) Aromatic polyester/polyether.

Use/Production. (G) Dispersively applied coating. Prod. range: 25,000–150,000 kg/yr.

P 88–2320

Manufacturer. Confidential.

Chemical. (G) Polyaromatic.

Use/Production. (G) Openly used industrial coating. Prod. range: 600 kg/yr.

P 88–2321

Manufacturer. Confidential.

Chemical. (G) Aryl polyether.

Use/Production. (G) Industrial coating with open use. Prod. range: 100,000–1,000,000 kg/yr.

P 88–2322

Manufacturer. Confidential.

Chemical. (G) Acid functional polyester resion of neopentyl glycol.

Use/Production. (G) Binder for exterior coating for containers. Prod. range: 100,000–1,000,000 kg/yr.

P 88–2323

Manufacturer. Confidential.

Chemical. (G) Polyurea.

Use/Production. (G) Component of industrial coating system. Prod. range 10,000–100,000 kg/yr.

P 88–2324

Manufacturer. Confidential.

Chemical. (G) Polyurea.

Use/Production. (G) Component of industrial coating system. Prod. range: 10,000–100,000 kg/yr.

P 88–2325

Manufacturer. Confidential.

Chemical. (G) Polyurea.

Use/Production. (G) Component of industrial coating system. Prod. range: 10,000–100,000 kg/yr.

P 88–2326

Manufacturer. Confidential.

Chemical. (G) Polyurea.

Use/Production. (G) Component of industrial coating system. Prod. range: 10,000–100,000 kg/yr.

P 88–2327

Manufacturer. Confidential.

Chemical. (G) Functional polymer of mixed acrylate and metacrylate based monomers.

Use/Production. (G) Industrial coatings with an open use. Prod. range: 277,500–555,000 kg/yr.

P 88–2328

Manufacturer. Confidential.

Chemical. (G) Styrenated methacrylate.

Use/Production. (G) Coating dispersive use. Prod. range: 5,000–10,000 kg/yr.

P 88–2329

Manufacturer. Confidential.

Chemical. (G) Styrenated polyacrylate polymethacrylate.

Use/Production. (G) Coating (dispersive use). Prod. range: 10,000–71,000 kg/yr.

P 88–2330

Manufacturer. Confidential.

Chemical. (G) Amine-modified epoxy resin.

Use/Production. (G) Industrial paint product. Prod. range: 1,000,000–3,000,000 kg/yr.

Date: October 27, 1988.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 88–25938 Filed 11–9–88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–51715; FRL–3473–8]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of one hundred sixty-six such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 88–1926, 88–1927—November 30, 1988;

P 88–1928, 88–1929, 88–1932, 88–1933, 88–1934, 88–1935, 88–1936, 88–1937, 88–1938, 88–1939, 88–1940, 88–1941—December 4, 1988;

P 88–1942, 88–1943, 88–1944, 88–1945, 88–1946, 88–1947, 88–1948, 88–1949, 88–1950, 88–1951, 88–1952, 88–1953, 88–1954, 88–1955, 88–1956, 88–1957, 88–1958, 88–1959, 88–1960, 88–1962, 88–1963, 88–1964, 88–1965, 88–1966, 88–1967, 88–1968, 88–1969, 88–1970, 88–1968, 88–1971, 88–1972, 88–1973, 88–1974—December 5, 1988;

P 88–1976, 88–1977, 88–1978, 88–1979, 88–1980, 88–1981, 88–1982, 88–1983, 88–1984, 88–1985, 88–1986—December 6, 1988;

P 88–1987, 88–1988, 88–1989, 88–1990, 88–1991, 88–1992, 88–1993—December 7, 1988;

P 88–1994, 88–1995, 88–1996, 88–1997, 88–1999, 88–2000, 88–2001, 88–2002, 88–2003—December 10, 1888;
P 88–2004, 88–2005, 88–2006, 88–2007, 88–2008, 88–2009, 88–2010, 88–2011, 88–2012, 88–2013, 88–2014, 88–2015, 88–2016, 88–2017, 88–2018, 88–2019, 88–2020, 88–2021, 88–2022, 88–2023, 88–2024, 88–2025, 88–2026, 88–2028—December 11, 1988;
P 88–2029, 88–2030, 88–2031, 88–2032, 88–2033, 88–2034, 88–2035, 88–2036, 88–2037, 88–2038, 88–2039, 88–2040, 88–2041, 88–2042, 88–2043, 88–2044, 88–2045, 88–2046, 88–2047, 88–2048, 88–2049, 88–2050—December 12, 1988;
P 88–2051, 88–2052, 88–2053, 88–2054, 88–2055, 88–2056, 88–2057, 88–2058, 88–2059, 88–2060, 88–2061, 88–2062, 88–2063, 88–2064, 88–2065, 88–2066—December 13, 1988;
P 88–2067, 88–2068, 88–2069, 88–2070, 88–2071, 88–2073, 88–2074, 88–2075, 88–2076, 88–2077, 88–2078, 88–2079, 88–2080, 88–2081, 88–2082—December 14, 1988;
P 88–2083, 88–2084, 88–2085, 88–2086, 88–2087—December 17, 1988;
P 88–2088—December 19, 1988;
P 88–2089, 88–2090, 88–2091—December 17, 1988;
P 88–2092—December 19, 1988;
P 88–2095, 88–2096, 88–2097, 88–2098, 88–2099, 88–2100—December 18, 1988.

Written comments by:

P 88–1926, 88–1927—October 31, 1988;
P 88–1928, 88–1929, 88–1932, 88–1933, 88–1934, 88–1935, 88–1936, 88–1937, 88–1938, 88–1939, 88–1940, 88–1941—November 4, 1988;
P 88–1942, 88–1943, 88–1944, 88–1945, 88–1946, 88–1947, 88–1948, 88–1949, 88–1950, 88–1951, 88–1952, 88–1953, 88–1954, 88–1955, 88–1956, 88–1957, 88–1958, 88–1959, 88–1960, 88–1962, 88–1963, 88–1964, 88–1965, 88–1966, 88–1967, 88–1968, 88–1969, 88–1970, 88–1971, 88–1972, 88–1973, 88–1974—November 5, 1988;
P 88–1976, 88–1977, 88–1978, 88–1979, 88–1980, 88–1981, 88–1982, 88–1983, 88–1984, 88–1985, 88–1986—November 6, 1988;
P 88–1987, 88–1988, 88–1989, 88–1990, 88–1991, 88–1992, 88–1993—November 7, 1988;
P 88–1994, 88–1995, 88–1996, 88–1997, 88–1999, 88–2000, 88–2001, 88–2002, 88–2003—November 10, 1988;
P 88–2004, 88–2005, 88–2006, 88–2007, 88–2008, 88–2009, 88–2010, 88–2011, 88–2012, 88–2013, 88–2014, 88–2015, 88–2016, 88–2017, 88–2018, 88–2019, 88–2020, 88–2021, 88–2022, 88–2023, 88–2024, 88–2025, 88–2026, 88–2028—November 11, 1988;
P 88–2029, 88–2030, 88–2031, 88–2032, 88–2033, 88–2034, 88–2035, 88–2036, 88–2037, 88–2038, 88–2039, 88–2040, 88–2041, 88–2042, 88–2043, 88–2044, 88–2045, 88–2046, 88–2047, 88–2048, 88–2049, 88–2050—November 12, 1988;
P 88–2051, 88–2052, 88–2053, 88–2054, 88–2055, 88–2056, 88–2057, 88–2058, 88–2059, 88–2060, 88–2061, 88–2062, 88–2063, 88–2064, 88–2065, 88–2066—November 13, 1988;
P 88–2067, 88–2068, 88–2069, 88–2070, 88–2071, 88–2073, 88–2074, 88–2075, 88–2076, 88–2077, 88–2078, 88–2079, 88–2080, 88–2081, 88–2082—November 14, 1988;
P 88–2083, 88–2084, 88–2085, 88–2086, 88–2087—November 17, 1988;
P 88–2088—November 19, 1988;
P 88–2089, 88–2090, 88–2091—November 17, 1988;
P 88–2092—November 19, 1988;
P 88–2095, 88–2096, 88–2097, 88–2098, 88–2099, 88–2100—November 18, 1988.

ADDRESS: Written comments, identified by the document control number "[OPTS–51715]" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Rm. L–100, 401 M Street SW., Washington, DC 20460, (202) 554–1305.

FOR FURTHER INFORMATION CONTACT: Lawrence Culleen, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 88–1926

Manufacturer. Confidential.
Chemical. (G) Functionalized polyurethane polyester.
Use/Production. (S) Chemical intermediate. Prod. range: 96,000–289,000 kg/yr.

P 88–1927

Manufacturer. Confidential.
Chemical. (G) Functionalized polyester polyacrylate.
Use/Production. (G) Industrial coating (dispersed use). Prod. range: 250,000–750,000 kg/yr.

P 88–1928

Manufacturer. Confidential.
Chemical. (G) Sulfonamides of isoindolyl derivative of aromatic heterocycle.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–1929

Manufacturer. Confidential.
Chemical. (G) Modified acrylate terpolymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–1932

Manufacturer. Confidential.
Chemical. (G) Sulfonyl chloride of mono- and di-substituted heterocyclic compound.
Use/Production. (G) Isolated intermediate. Prod. range: Confidential.

P 88–1933

Manufacturer. Confidential.
Chemical. (G) Poly(alkyl methacrylate-succinic)alkyl imides.
Use/Production. (G) Fuel additive. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 2,000 mg/kg species (Rat). Mutagenicity: negative.

P 88–1934

Manufacturer. Confidential.
Chemical. (G) Sodium thiosulfate derivative of a sulfur dye.
Use/Production. (S) Powder dye (for cellulosic fibers). Prod. range: Confidential.

P 88–1935

Manufacturer. Confidential.
Chemical. (G) Reaction product of a substituted copper phthalocyanine and sodium, oxidized.
Use/Production. (S) Intermediate further chemical manufacture. Prod. range: Confidential.

P 88–1936

Manufacturer. Sandoz Chemicals Corporation.
Chemical. (S) Reaction product of 5-((4-hydroxyphenyl)amino)-8-(phenylamino)-1-naphthalenesulfonic acid, with sodium sulfide (Na2)(Sx)), oxidized; C.I. 53571.
Use/Production. (S) Dye intermediate (for further chemical manufacture). Prod. range: Confidential.

P 88–1937

Manufacturer. Confidential.
Chemical. (G) Substituted 2-nitrobenzenesulfonamide.
Use/Production. (S) Intermediate for further chemical manufacture. Prod. range: Confidential.

P 88–1938

Manufacturer. Confidential.
Chemical. (G) Substituted 2-aminobenzenesulfonamide.
Use/Production. (S) Intermediate for further chemical manufacture. Prod. range: Confidential.

P 88–1939

Manufacturer. Confidential.
Chemical. (G) Substituted benzenesulfonamide-2-(substituted hydroxynaphthalene sulfonic acid)azo-, sodium salt.
Use/Production. (S) Powder dye (for nylon fibers). Prod. range: Confidential.

P 88–1940

Manufacturer. Sandoz Chemicals Corporation.
Chemical. (G) N-Substituted octadecanamide.
Use/Production. (S) Emulsifier (for surface coating). Prod. range: Confidential.

P 88–1941

Importer. Confidential.
Chemical. (G) Substituted piperidine.
Use/Import. (S) Light stabilizer for automotive paint. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 88–1942

Manufacturer. Confidential.
Chemical. (G) Ester-aldehyde.
Use/Production. (G) Coating. Prod. range: Confidential.

P 88–1943

Manufacturer. Confidential.
Chemical. (G) Ester-aldehyde.
Use/Production. (G) Coating. Prod. range: Confidential.

P 88–1944

Importer. Roure, Inc.
Chemical. (S) Acetylated cedrus terpenes.
Use/Import. (S) Ingredient in fragrances, cosmetics, household products. Import range: 400–500 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 2.5 g/kg species (Rat). Eye irritation: none species (Rabbit). Skin sensitization: negative species (Guinea pig). Phototoxicity: negative species (Guinea pig).

P 88–1945

Manufacturer. Confidential.
Chemical. (G) MDI prepolymer.
Use/Production. (G) Elastomer. Prod. range: Confidential.

P 88–1946

Importer. Confidential.
Chemical. (G) Salt of substituted naphthalene disulfonic acid.
Use/Import. (G) Colorant. Import range: Confidential
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–1947

Importer. Huls America Inc.
Chemical. (S) Piperidine, 1-acetyl-4-(3-dodecyl-2.5-doxo-1-pyrrolidinyl)-2.2.6.6-tetratmethyl.
Use/Import. (S) Light stabilizer for plastics lacquers and coating. Import range: 3,000–30,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50>3,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: strong species (Rabbit).

P 88–1948

Importer. E.I. Du Pont De Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Import. (G) Molded and extruded goods. Import range: Confidential.

P 88–1949

Importer. E.I. Du Pont De Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Import. (G) Molded and extruded goods. Import range, Confidential.

P 88–1950

Importer. E.I. Du Pont De Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Import. (G) Liner and film. Import range: Confidential.

P 88–1951

Importer. E.I. Du Pont De Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Import. (G) Liner and film. Import range: Confidential.

P 88–1952

Manufacturer. Confidential.
Chemical. (S) 2-Butane acid, 4-chloro-4-oxo-ethyl ester.
Use/Production. (S) Part of a polyether ester. Prod. range: 16,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 810 mg/yr. Acute dermal toxicity: LD50 1,410 mg/kg species (Rabbit). Eye irritation: strong species (Rabbit). Skin irritation: strong species (Rabbit).

P 88–1953

Importer. Confidential.
Chemical. (G) Acrylate vinylidene chloride copolymer.
Use/Import. (G) Binder. Import range: Confidential.

P 88–1954

Manufacturer. Confidential.
Chemical. (G) Alkenoic acid polymer with alkene, carbomononcyclic alkene, alkenylnitrile, and alkylalkenylamide.
Use/Production. (S) Leather finishing. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >2,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 88–1955

Manufacturer. Confidential.
Chemical. (G) Heteromonocyclic derivative of a substituted oxoalkanamide, alkanoate.
Use/Production. (S) Paper dye. Prod. range: Confidential.

P 88–1956

Manufacturer. Milliken & Company.
Chemical. (G) Alkyl capped polethylene glycol fatty acid ester.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–1957

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Unsaturated polyester resin.
Use/Production. (S) Automotive body patch resin. Prod. range: Confidential.

P 88–1958

Manufacturer. Reilly Tar & Chemical Corporation.
Chemical. (S) 4-(1,2,4-(4H)triazol)amine.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 100 mg/kg species (Rat). Acute dermal toxicity: LD50 150 mg/kg species (Rabbit). Inhalation toxicity: LC50 890 ppm/4 hr. species (Rat).

P 88–1959

Manufacturer. Koppers Co., Inc.
Chemical. (G) Unsaturated polyester resin.
Use/Production. (G) Open, nondispersive. Prod. range: 300,000–500,000 kg/yr.

P 88–1960

Manufacturer. Confidential.
Chemical. (G) Heterocyclic amine.
Use/Production. (G) Intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 100–200 mg/kg species (Rat). Acute dermal toxicity: LD50 1,350 mg/kg

species (Rabbit). Inhalation toxicity: LC50 5,500 pmm/1.5 hr. species (Rats).

P 88–1962

Manufacturer. Confidential.
Chemical. (G) Polyamine amide derivative.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 88–1963

Manufacturer. Confidential.
Chemical. (G) Polyamine amide derivative.
Use/Production. (G) Chemical Intermediate. Prod. range: Confidential.

P 88–1964

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Powdered or liquid reactive dye for textiles cellulose. Import range: Confidential.

P 88–1965

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Powdered or liquid reactive dye for textiles cellulose. Import range: Confidential.

P 88–1966

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Powdered or liguid reactive dye for textilies cellulose. Import range: Confidential.

P 88–1967

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Powdered or liquid reactive dye for textiles cellulose. Import range: Confidential.

P 88–1968

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Powdered or liguid reactive dye for textiles cellulose. Import range: Confidential.

P 88–1969

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Powdered or liquid reactive dye for textiles cellulose. Import range: Confidential.

P 88–1970

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted aromatic azo compound.
Use/Import. (S) Powdered or liguid reactive dye for textiles cellulose. Import range: Confidential.

P 88–1971

Manufacturer. Confidential.
Chemical. (G) Substituted 3H-pyrazol-3-one-4-[2-methylphenyl]azo)-2,4-dihydro-5-methyl-2-phenyl.
Use/Production. (S) Colorant for plastics. Prod. range: Confidential.

P 88–1972

Manufacturer. Confidential.
Chemical. (G) Polyether amide.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–1973

Manufacturer. Confidential.
Chemical. (G) Polyether amide.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–1974

Importer. Confidential.
Chemical. (S) Fatty acids, C16–18 esters with pentaerythritol.
Use/Import. (S) Lubricant for plastics. Imprt range: Confidential.

P 88–1976

Manufacturer. Confidential.
Chemical. (G) Polyimide.
Use/Production. (G) Hardening of epoxy resins. Prod. range: Confidential.

P 88–1977

Importer. Confidential.
Chemical. (G) N-Substituted aminonaphthalenesulfonic acid, potassium salt.
Use/Import. (S) Intermediate for further chemical manufacture. Import range: Confidential.

P 88–1978

Importer. Confidential.
Chemical. (G) N-Substituted amino naphthalene sulfonic acid, ammonium salt.
Use/Import. (S) Intermediate for further chemical manufacturing. Import range: Confidential.

P 88–1979

Manufacturer. Confidential.
Chemical. (G) Diethylenetriamine, reaction product with mixed alcohol propyl epoxides.
Use/Production. (S) Intermediate for further processing. Prod. range: Confidential.

P 88–1980

Manufacturer. Confidential.
Chemical. (G) Dimethylsulfate, reaction products with ethoxylated, diethylenetriamine racted substituted epoxides.
Use/Production. (S) Component of leveling agent for dyes. Prod. range: Confidential.

P 88–1981

Manufacturer. Confidential.
Chemical. (G) Carboxymethylated alcohol, sodium salt.
Use/Production. (S) Intermediate for further processing, textile industry. Prod. range: Confidential.

P 88–1982

Manufacturer. Confidential.
Chemical. (G) Substituted 1,2-epoxypropane.
Use/Production. (S) Intermediate for further chemical processing. Prod. range: Confidential.

P 88–1983

ImporterManufacturer. Confidential.
Chemical. (G) Sulfonated substituted anthraquinone, potassium salt.
Use/Import. (S) Dye for nylon fibers. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >2,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–1984

Importer. Confidential.
Chemical. (G) Sulfonated substituted anthraquinone, lithium salt.
Use/Import. (S) Dye for nylon fibers. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >2,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–1985

Manufacturer. Confidential.
Chemical. (G) Diethylenetriamine, reaction product with mixed alcohol propyl epoxides, ethylated.
Use/Production. (S) Intermediate for further processing, textile industry. Prod. range: Confidential.

P 88–1986

Importer. Confidential.
Chemical. (G) Substituted ethylated alkylamine.
Use/Import. (G) Leveling agent for the dyeing of wool. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–1987

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer.

aminomethylated, chloromethane quarternized, chloride.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD 50 5.0 g/kg species (Rat).

P 88–1988

Importer. Confidential.

Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, trimethylammonium quarternized, hydroxide.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5.8 g/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 88–1989

Importer. Confidential.

Chemical. (G) Polyacrylate resin.

Use/Import. (G) Paint. Import range: Confidential.

P 88–1990

Manufacturer. Confidential.

Chemical. (G) Polyacrylate resin.

Use/Production. (G) Paint. Prod range: Confidential.

P 88–1991

Manufacturer. Confidential.

Chemical. (G) Polymer of ethenyl benzene, 2-methyl-2-propenoic acid hydroxalkyd ester; propenoic acid and oxirane compound with chain transfer agent and initiator.

Use/Production. (G) Paint. Prod. range: Confidential.

P 88–1992

Manufacturer. Confidential.

Chemical. (G) Polymer of ethenyl benzene; 2-methyl-2-propenoic acid hydroxyalkyl ester; and propenoic acid with chain transfer agent and initiator.

Use/Production. (S) Intermediate. Prod. range: Confidential.

P 88–1993

Manufacturer. Confidential.

Chemical. (G) Epoxy modified oleoresinous varnish.

Use/Production. (G) Chemical-resistant clear coating. Prod. range: Confidential.

P 88–1994

Importer. Confidential.

Chemical. (G) Substituted sulfonated nickel phthalocyanine, sodium salt.

Use/Import. (S) Dye for cellulosic fibers. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 >2,000 mg/kg species (Rabbit). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 88–1995

Manufacturer. Confidential.

Chemical. (G) Dialkyldithiophosphoric acid, metal salt.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–1996

Manufacturer. Ethyl Corporation.

Chemical. (S) 1-Octylamine, N, N-dimethyl-N-oxide.

Use/Production. (S) Surface clearing, personal care. Prod. range: Confidential.

P 88–1997

Importer. Confidential.

Chemical. (S) 1,1-Bis(4-hydroxyphenyl)-1-phenylethane, polymer with dichlorocarbon monooxide, terminated by 4-(ter-butyl)phenol.

Use/Import. (G) Binder resin. Import range: Confidential.

P 88–1999

Manufacturer. Confidential.

Chemical. (G) Substituted phenol, metal salt.

Use/Production. (S) Coating component of carbonless copy paper. Prod. range: Confidential.

P 88–2000

Manufacturer. Confidential.

Chemical. (G) Substituted phenol alkaline salt.

Use/Production. (S) Coating component of carbonless copy paper. Prod. range: Confidential.

P 88–2001

Manufacturer. Confidential.

Chemical. (G) Substituted phenol, metal salt.

Use/Production. (S) Coating component of carbonless copy paper. Prod. range: Confidential.

P 88–2002

Importer. Emser Industries, a division of EMS-Amer

Chemical. (S) 1,6-Hexane-diglycidylether.

Use/Import. (S) Reactive diluent. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 8,500 mg/ky species (Rat). Acute dermal toxicity: LD50 >4,900 mg/yr species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: positive.

P 88–2003

Manufacturer. Confidential.

Chemical. (S) Rosin, fumarated, polymer with p-tert-butyl-phenol, formaldehyde, pentaerythritol and glycerol.

Use/Production. (G) Resin for oils. Prod. range: Confidential.

P 88–2004

Importer. Confidential.

Chemical. (S) Bis(substituted)heteropolycyclicdiione.

Use/Import. (S) Protective of polymers against U.V. radiation. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5,000 species (Rat).

P 88–2005

Importer. Sherex Chemical Company, Inc.

Chemical. (G) Thermoplastic polyamide.

Use/Import. (S) Hot melt adhesive (electronics industry). Import range: Confidential.

P 88–2006

Importer. Reichhold Chemicals, Inc.

Chemical. (G) Polyurethane.

Use/Import. (S) Lamination of packaging materials. Import range: Confidential.

P 88–2007

Importer. Confidential.

Chemical. (G) Alkylamine.

Use/Import. (S) Manufacture of all an agricultural Chemical. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 486 mg/kg species (Rat). Inhalation toxicity: LC50 5.2-6f mg/1 (4hr.) species (Rabbit).

P 88–2008

Manufacturer. Confidential.

Chemical. (G) Carboxylic acid easter.

Use/Production. (S) Lubricant base. Prod. range: Confidential.

P 88–2009

Manufacturer. Confidential.

Chemical. (G) Alkenylether of alkanetriol polymer.

Use/Production. (S) Paper auxiliaries. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >2,000 mg/kg species (Rat). Skin irritation: moderate species (Rabbit). Mutagenicity: negative.

P 88–2010

Manufacturer. Confidential.

Chemical. (G) Polyurethane polysiloxane blocked copolymer.

Use/Production. (G) Additive coating. Prod. range: Confidential.

P 88–2011

Importer. Huls America Inc.
Chemical. (S) Ethane, homopolymer and paraffin waxes, calcium (fischer-tropsch process) oxidized, mixed hydroxide, partially saponified.
Use/Import. (S) Compound in dry-bright emulsion. Import range: 50,000–100,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 >3,000 mg/kg species (Rat). Acute dermal toxicity: LD50. Eye irritation: none species (rabbit). Skin irritation: negligible species (Rabbit).

P 88–2012

Manufacturer. The Goodyear Tire & Rubber Company.
Chemical. (G) Substituted carboxylic acid alkene diol polyester .
Use/Production. (S) Containers packages cord, gage sheeting. Prod. range: 50,000–750,000 kg/yr.

P 88–2013

Manufacturer. NL Chemicals.
Chemical. (G) Polyester.
Use/Production. (G) Polyester (open, non-dispersive use). Prod. range: Confidential.

P 88–2014

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, hydrolyzed.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2015

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benezene polymer hydrolyzed.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2016

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benezene polymer, hydrolyzed.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2017

Importer. Confidential.
Chemical. (S) Substituted-substituted-substituted-benezene polymer, hydrolyzed.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2018

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benezene polymer, aminosmethylated, substituted, partial sodium salt.
Use/Import. (G) Open. nondispersive. Import range: Confidential.
Toxicity Data. Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 88–2019

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benezene polymeraminomethylated, dimethylated.
Use/Import. (G) Open, nondispersive. Import range: Confidential.
Toxicity Data. Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 88–2020

Manufacturer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benezene polymer, aminomethylated.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2021

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene aminomethylated, dimethylated, partially chloromethane quarternized, partial chloride salt.
Use/Import. (G) Open, nondispersive. Import range: Confidential.
Toxicity Data. Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 88–2022

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Chlorofluorocarbon.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 88–2023

Importer. Emser Industries, a Div. of EMS-Amer.
Chemical. (S) Caprolactam-isocyanic acid, polymethylenepolyphenlene ester-adduct.
Use/Import. (G) Reactive hot melt adhesive. Import range: Confidential.

P 88–2024

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (S) Resin for manufacture of industrial coating. Prod. range: Confidential.

P 88–2025

Manufacturer. Confidential.
Chemical. (G) Amine functionalized olefin polymer.
Use/Production. (G) Petroleum additive. Prod. range: Confidential.
Toxicity Date. Acute oral toxicity: LD50 10 g/kg species (Rat).

P 88–2026

Manufacturer. Confidential.
Chemical. (G) Amine functionalized olefin polymer.
Use/Production. (G) Petroleum additive. Prod. range: Confidential.

P 88–2028

Importer. Reichhold Chemicals Inc.
Chemical. (G) Polyurethane.
Use/Production. (S) Laminating adhesive for packaging materials. Import range: Confidential.

P 88–2029

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, reacted with a substituted amine.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2030

Importer. Confidential.

Chemical. (G) Substituted-substituted-substituted-benzene polymer, reacted with a substituted amine, quarternized chloride salt.
Use/Import. (G) Open, nondispersive. Import range: Confidential.
Toxicity Date. Acute oral toxicity: LD50 5.0 g/kg species (Rat).

P 88–2031

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, reacted with a substituted amine, partially quarternized, partial chloride salt.
Use/Import. (G) Open, nondispersive. Import range: Confidential.
Toxicity Date. Acute oral toxicity: LD50 5.0 g/kg species (Rat).

P 88–2032

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, hydrolyzed.
Use/Import. (G) Open, nondispersive. Import range: Confidential.
Toxicity Date. Acute oral toxicity: LD50 >5.0 g/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: moderate species (Rabbit).

P 88–2033

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, borate.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2034

Importer. Confidential

Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, molybdate.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2035

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, nitrate.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2036

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, phosphate.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2037

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, reacted with an organic zinc salt.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2038

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated reacted with an organic copper salt.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2039

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, reacted on with an organic iron salt.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2040

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, reacted with an organic magnesese sale.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2041

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated reacted with an organic carbamide.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2042

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, quarternized, chloride salt.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2043

Importer. Confidential.
Chemical. (G) Substituted-substituted-substituted-benzene polymer, aminomethylated, dimethylated, quarternized, chloride salt.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 88–2044

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyester acid.
Use/Production. (S) Flow modifier for powder coatings. Prod. range: 10,000–100,000 kg/yr.

P 88–2045

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyester acid.
Use/Production. (S) Flow modifier for powder coatings. Prod. range: 10,000–100,000 kg/yr.

P 88–2046

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyester acid.
Use/Production. (S) Flow modifier for power coatings. Prod. range: 10,000–100,000 kg/yr.

P 88–2047

Manufacturer. Confidential.
Chemical. (G) Methacrylate acrylic polymer.
Use/Production. (S) Resin for coil coatings. Prod. range: 500,000–1,000,000 kg/yr.

P 88–2048

Manufacturer. Confidential.
Chemical. (G) Modified styrenated polymer.
Use/Production. (S) Interior container coating. Prod. range: 8,330–4,160 kg/yr.

P 88–2049

Manufacturer. Confidential.
Chemical. (G) Alcoholic polyimide urethane.
Use/Production. (G) Coating (industrial. dispersive use). Prod. range: 10,000–60,000 kg/yr.

P 88–2050

Importer. Confidential.
Chemical. (G) Fluorinated acrylic ester copolymer.
Use/Import. (G) Coating resin. Import range: Confidential.

P 88–2051

Manufacturer. Confidential.
Chemical. (G) Substituted phthalic anhydride.
Use/Production. (G) Polymer intermediate. Prod. range: Confidential.

P 88–2052

Manufacturer. Confidential.
Chemical. (G) Salt of perylene tetracarboxylic acid bis-arylimide.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2053

Manufacturer. Confidential.
Chemical. (G) Perylene tetracarboxylic acid bis-arylimide.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 88–2054

Importer. Confidential.
Chemical. (G) Vinyl acrylic copolymer.
Use/Import. (S) Coating, modifier for coatings. Import range: Confidential.

P 88–2055

Importer. Confidential.
Chemical. (G) Vinyl acrylic copolymer.
Use/Import. (S) Coating, modifier for coatings. Import range: Confidential.

P 88–2056

Manufacturer. Confidential.
Chemical. (G) Vinyl acrylic copolymer.
Use/Production. (S) Coating, modifier for coatings. Prod. range: Confidential.

P 88–2057

Importer. Confidential.
Chemical. (G) Vinyl acrylic copolymer.
Use/Import. (S) Coatings. Import range: Confidential.

P 88–2058

Importer. Confidential.
Chemical. (G) Vinyl acrylic copolymer.
Use/Import. (S) Coatings. Import range: Confidential.

P 88–2059

Manufacturer. Confidential.
Chemical. (G) Neutralized aliphatic aromatic polyester.
Use/Production. (G) Industrial coating vehicle. Prod. range: 1,360–68,000 kg/yr.

P 88–2060

Manufacturer. Confidential.
Chemical. (G) Neutralized aliphatic polyester.

Use/Production. (G) Industrial coating vehicle. Prod. range: 1,360–68,000 kg/yr.

P 88–2061

Manufacturer. Confidential.
Chemical. (G) Neutralized aliphatic aromatic polyester.
Use/Production. (G) Industrial coating vehicle. Prod. range: 1,360–68,000 kg/yr.

P 88–2062

Manufacturer. Confidential.
Chemical. (G) Neutralized aliphatic aromatic polyester.
Use/Production. (G) Industrial coating vehicle. Prod. range: 1,360–68,000 kg/yr.

P 88–2063

Manufacturer. Confidential.
Chemical. (G) Neutralized aliphatic aromatic polyester.
Use/Production. (G) Industrial coating vehicle. Prod. range: 1,360–68,000 kg/yr.

P 88–2064

Manufacturer. Hi-Tek Polymers, Inc.
Chemical. (G) Polyester oligomer; reactive diluent.
Use/Production. (G) Component of colorants, inks coatings. Prod. range: Confidential.

P 88–2065

Manufacturer. Hi-Tek Polymers, Inc.
Chemical. (G) Polyester oligoner; Reactive diluent.
Use/Production. (G) Component of inks, colorants, coatings. Prod. range: Confidential.

P 88–2066

Importer. Daicolor-Pope, Inc.
Chemical. (G) Polyvinyl butyral and organopolysiloxane copolymer.
Use/ Import. (G) Back coating agent. Import range: 2,000–15,000 kg/yr.

P 88–2067

Manufacturer. Alco Chemical Corporation.
Chemical. Vinyl modified nonionic surfactant.
Use/Production. (S) Solids alkyd modifer for air dry coatings. Prod. range: 21,000–42,000 kg/yr.

P 88–2068

Manufacturer. Confidential.
Chemical. (G) Sodium polyacrylate; acrylate copolymer salt; vinyl copolymer.
Use/Production. (G) Thickening compound for aqueous systems. Prod. range: Confidential.

P 88–2069

Manufacturer. Confidential.
Chemical. (G) Halogenated aromatic polycarbonate polymer.
Use/Production. (G) Flame retardant for plastics. Prod. range: Confidential.

P 88–2070

Manufacturer. Confidential.
Chemical. (G) Aliphatic aromatic polyester resin.
Use/Production. (G) Industrial coating vehicle intermediate. Prod. range: 1,360–68,000 kg/yr.

P 88–2071

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyester acid polymer.
Use/Production. (S) Flow modifier for powder coating. Prod. range: 10,000–100,000 kg/yr.

P 88–2073

Manufacturer. Confidential.
Chemical. (G) Styrenated functionalized methacrylic polymer.
Use/Production. (S) Resin for seam adhesive. Prod. range: 700–2,100 kg/yr.

P 88–2074

Manufacturer. Confidential.
Chemical. (G) Modified acrylic polymer.
Use/Production. (G) Polymer for industrial usage. Prod. range: 8,330–41,600 kg/yr.

P 88–2075

Manufacturer. Confidential.
Chemical. (G) Aromatic polyurethane in polyol.
Use/Production. (G) Coating polymer, nondispersive. Prod. range: 100,000–1,565,000 kg/yr.

P 88–2076

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Resins for coating. Prod. range: Confidential.

P 88–2077

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Resin for coating. Prod. range: Confidential.

P 88–2078

Manufacturer. Hanna Chemical Coatings Corp.
Chemical. (G) Saturated polyester.
Use/Production. (S) Polyester vehicle for pigmented synthetic coatings. Prod. range: 117,000–234,000 kg/yr.

P 88–2079

Manufacturer. Confidential.
Chemical. (G) Blocking catalyst.
Use/Production. (G) Coating catalyst. Prod. range: Confidential.

P 88–2080

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (G) Resin for coating. Prod. range: Confidential.

P 88–2081

Manufacturer. Confidential.
Chemical. (G) Isocyanate reaction with cyclic primary amines.
Use/Production. (G) Oil thickner. Prod. range: Confidential.

P 88–2082

Importer. Confidential.
Chemical. (G) Polyether diol sulfonates.
Use/Import. (G) Open, nondispersive. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,700 mk/kg species(Rat). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit).

P 88–2083

Manufacturer. Confidential.
Chemical. (G) Substituted heterocyclic compound.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2084

Manufacturer. Confidential.
Chemical. (G) Alkyl amino heterocylic compound.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2085

Importer. Confidential.
Chemical. (G) Vinyl acrylic copolymer.
Use/Import. (S) Coating; modifier coatings, inks, adhesives. Import range: Confidential.

P 88–2086

Importer. Confidential.
Chemical. (G) Vinyl acrylic copolymer.
Use/Import. (S) Coatings, modifier for coatings, inks, adhesives. Import range: Confidential.

P 88–2087

Importer. Confidential.
Chemical. (G) Derivative of copper phthalocyanine.
Use/Import. (G) Additives. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >16 g/kg species (Mice). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 88–2088

Importer. Emser Industries.
Chemical. (S) Dodecanoic acid, diester with 2,2'-(isopropylenebis(P-phenylenoxy)diethanol.

Use/Import. (G) Nucleating agent. Import range: Confidential.

P 88-2089

Importer. Emser Industries.
Chemical. (S) Dodecanoic acid,(1-Methyllidene)bis(4,1-phenyleneoxy-2,1-ethane-diyloxy-2,1-ethanediyl)-ester.
Use/Import. (G) Nucleating agent. Import range: Confidential.

P 88-2090

Importer. Emser Industries.
Chemical. (S) N-tridecanoic acid diester with 2,2'(isopropylidenebis(phenylene oxy)diethanol.
Use/Import. (G) Nucleating agent. Import range: Confidential.

P 88-2091

Importer. Emser Industries.
Chemical. (S) N-Tridecanoic acid,(1-methylethylidene)bis(4,1-phenyleneoxy-2,1-ethane-diyloxy-2,1-ethanedily)-ester.
Use/Import. (G) Nucleating agent. Import range: Confidential.

P 88-2092

Importer. Hodogaya Chemical (U.S.A.) Inc.
Chemical. (S) Ferrate(1-),; bis(4-((5-chloro-2-hydroxyphenyl)azo)-3-hydroxy-N-phenyl-2-naphthalenecarboxamidato(2-))-,ammonium, sodium and hydrogen.
Use/Import. (S) Charge controlling agent. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5.0 g/kg species(Raty). Acute dermal toxicity: LD50 2.0 g/kg species(Rats). Eye irritation: none species(Rabbir). Skin irritation: negligible species(Rabbit). Mutagenicity: negative.

P 88-2095

Manufacturer. Confidential.
Chemical. (G) Aliphatic aromatic polyalcohol ether amine.
Use/Production. (G) Film forming resin for industrial application. Prod. range: 200,000-3,000,000 kg/yr.

P 88-2096

Manufacturer. Confidential.
Chemical. (G) Aliphatic aromatic polyalcohol ether amine.
Use//Production. (G) Film forming resin for industrial application. Prod. range: 200,000-3,000,000 kg/yr.

P 88-2097

Manufacturer. Confidential.
Chemical. (G) Aliphatic aromatic polyalcohol ether amine.
Use/Production. (G) Film forming resin for industrial application. Prod. range: 200,000-3,000,000 kg/yr.

P 88-2098

Manufacturer. Confidential.
Chemical. (g) Aliphatic aromatic polyalcohol ether amine.
Use/Production. (G) Film forming resin for industrial application. Prod. range: 200,000-3,000,000 kg/yr.

P 88-2099

Manufacturer. Confidential.
Chemical. (G) Aliphatic aromatic polyalcohol ether amine.
Use/Production. (G) Film forming resin for industrial application. Prod. range: 200,000-3,000,000 kg/yr.

P 88-2100

Manufacturer. Confidential.
Chemical. (G) Cationic terpolymer of acrylamide.
Use/Production. (S) Water clarification. Prod. range: Confidential.

Dated: October 27, 1988.

Steve Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

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[OPTS-51717; FRL-3474-5]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of three hundred seventy-four such PMNs and provides a summary of each:

DATES: Close of review periods:

P 88-2331, 88-2332, 88-2333, 88-2334, 88-2335, 88-2337, 88-2338, 88-2339, 88-2340, 88-2341, 88-2342, 88-2343, 88-2344, 88-2345, 88-2346, 88-2347, 88-2348, 88-2349, 88-2350, 88-2351, 88-2352—December 25, 1988.

P 88-2353, 88-2354, 88-2355, 88-2356, 88-2357, 88-2358, 88-2359, 88-2360, 88-2362, 88-2363, 88-2364, 88-2365, 88-2366, 88-2367, 88-2368, 88-2369, 88-2370, 88-2371, 88-2372, 88-2373, 88-2374, 88-2375, 88-2376, 88-2377, 88-2378—December 26, 1988.

P 88-2379—December 28, 1988.

P 88-2380, 88-2381, 88-2382, 88-2384, 88-2385, 88-2386, 88-2387, 88-2388, 88-2389, 88-2390, 88-2391, 88-2392, 88-2393, 88-2394, 88-2395, 88-2396, 88-2397, 88-2398, 88-2399, 88-2400, 88-2401, 88-2402, 88-2403, 88-2404, 88-2405, 88-2406, 88-2407, 88-2408, 88-2409, 88-2410, 88-2411, 88-2412, 88-2413, 88-2414, 88-2415—December 26, 1988.

P 88-2416, 88-2417, 88-2418, 88-2419, 88-2420, 88-2421, 88-2422, 88-2423, 88-2424, 88-2425, 88-2426—December 27, 1988.

P 88-2427—December 31, 1988.

P 88-2428, 88-2429, 88-2430, 88-2431, 88-2432, 88-2433, 88-2434, 88-2435, 88-2436, 88-2437, 88-2438, 88-2439, 88-2440, 88-2441, 88-2442, 88-2443, 88-2444, 88-2445, 88-2446, 88-2447, 88-2448, 88-2449, 88-2450, 88-2451, 88-2452, 88-2453, 88-2454, 88-2455, 88-2456, 88-2457, 88-2458, 88-2459, 88-2460, 88-2461, 88-2462, 88-2463, 88-2464, 88-2465, 88-2466, 88-2467, 88-2468, 88-2469, 88-2470, 88-2471, 88-2472, 88-2473, 88-2774, 88-2475, 88-2476, 88-2477, 88-2478, 88-2479, 88-2480, 88-2481, 88-2482, 88-2483, 88-2484, 88-2485, 88-2486, 88-2487, 88-2488, 88-2489, 88-2490, 88-2491, 88-2492, 88-2493, 88-2494, 88-2495, 88-2496, 88-2497, 88-2498, 88-2499, 88-2500, 88-2501, 88-2502, 88-2503, 88-2504, 88-2505, 88-2506, 88-2507, 88-2508, 88-2509, 88-2510, 88-2511, 88-2512, 88-2513, 88-2514, 88-2515, 88-2516, 88-2517, 88-2518, 88-2519, 88-2520, 88-2521, 88-2522, 88-2523, 88-2524, 88-2525, 88-2526, 88-2527, 88-2528, 88-2529, 88-2530, 88-2531, 88-2532, 88-2533, 88-2534, 88-2535, 88-2536, 88-2537, 88-2538, 88-2539, 88-2540, 88-2541, 88-2542, 88-2543, 88-2544—December 27, 1988.

P 88-2545—December 28, 1988.

P 88-2546, 88-2547, 88-2548, 88-2549, 88-2550, 88-2551, 88-2552, 88-2553, 88-2554, 88-2555, 88-2556, 88-2557, 88-2558, 88-2559, 88-2560, 88-2561—December 27, 1988.

P 88-2562—January 3, 1989.

P 88-2563, 88-2564, 88-2565, 88-2566, 88-2567—December 27, 1988.

P 88-2568, 88-2569, 88-2570, 88-2571, 88-2572, 88-2573, 88-2574, 88-2575, 88-2576, 88-2577, 88-2578, 88-2579, 88-2580—December 28, 1988.

P 88-2581—Ianuary 3, 1989.

P 88-2582, 88-2583, 88-2584, 88-2585, 88-2586, 88-2587, 88-2588, 88-2589, 88-2590, 88-2591, 88-2592, 88-2593, 88-2594, 88-2595, 88-2596, 88-2597, 88-2598, 88-2599, 88-2600, 88-2601, 88-2602, 88-2603, 88-2604, 88-2605, 88-2606, 88-2607, 88-2608, 88-2609, 88-2610, 88-2611, 88-2612, 88-2613, 88-2614, 88-2615, 88-2616, 88-2617, 88-

2618, 88–2619, 88–2620, 88–2621, 88–2622, 88–2623, 88–2624, 88–2625, 88–2626, 88–2627, 88–2628, 88–2629, 88–2630, 88–2631, 88–2632, 88–2633, 88–2634, 88–2635, 88–2636, 88–2637, 88–2638, 88–2639, 88–2640, 88–2641, 88–2642, 88–2643, 88–2644, 88–2645—December 28, 1988

P 89–1—December 31, 1988.

P 89–2, 89–3, 89–4, 89–5, 89–6, 89–7, 89–8, 89–9, 89–10, 89–11, 89–12, 89–13, 89–14, 89–15, 89–16, 89–17—January 1, 1989.

P 89–18, 89–19—December 31, 1988.

P 89–20, 89–21, 89–22, 89–23, 89–24, 89–25—January 1, 1989.

P 89–26, 89–27, 89–28, 89–29, 89–30, 89–31, 89–32—December 31, 1988.

P 89–33, 89–34, 89–35, 89–36, 89–37, 89–38—January 1, 1989.

P 89–39, 89–40, 89–41, 89–42, 89–43, 89–44, 89–45, 89–46, 89–47, 89–48—January 2, 1989.

P 89–49, 89–50, 89–51—January 3, 1989.

P 89–52, 89–53—January 8, 1989.

P 89–54—January 9, 1989.

P 89–55—89–56—January 10, 1989.

P 89–57—January 14, 1989.

P 89–58, 89–59, 89–60—January 15, 1989.

P 89–61, 89–62—January 16, 1989.

Written comments by:

P 88–2331, 88–2332, 88–2333, 88–2334, 88–2335, 88–2337, 88–2338, 88–2339, 88–2340, 88–2341, 88–2342, 88–2343, 88–2344, 88–2345, 88–2346, 88–2347, 88–2348, 88–2349, 88–2350, 88–2351, 88–2352—November 25, 1988.

P 88–2353, 88–2354, 88–2355, 88–2356, 88–2357, 88–2358, 88–2359, 88–2360, 88–2362, 88–2363, 88–2364, 88–2365, 88–2366, 88–2367, 88–2368, 88–2369, 88–2370, 88–2371, 88–2372, 88–2373, 88–2374, 88–2375, 88–2376, 88–2377, 88–2378—November 26, 1988.

P 88–2379—November 28, 1988.

P 88–2380, 88–2381, 88–2382, 88–2384, 88–2385, 88–2386, 88–2387, 88–2388, 88–2389, 88–2390, 88–2391, 88–2392, 88–2393, 88–2394, 88–2395, 88–2396, 88–2397, 88–2398, 88–2399, 88–2400, 88–2401, 88–2402, 88–2403, 88–2404, 88–2405, 88–2406, 88–2407, 88–2408, 88–2409, 88–2410, 88–2411, 88–2412, 88–2413, 88–2414, 88–2415—November 26, 1988.

P 88–2416, 88–2417, 88–2418, 88–2419, 88–2420, 88–2421, 88–2422, 88–2423, 88–2424, 88–2425, 88–2426—November 27, 1988.

P 88–2427—December 1, 1988.

P 88–2428, 88–2429, 88–2430, 88–2431, 88–2432, 88–2433, 88–2434, 88–2435, 88–2436, 88–2437, 88–2438, 88–2439, 88–2440, 88–2441, 88–2442, 88–2443, 88–2444, 88–2445, 88–2446, 88–2447, 88–2448, 88–2449, 88–2450, 88–2451, 88–2452, 88–2453, 88–2454, 88–2455, 88–2456, 88–2457, 88–2458, 88–2459, 88–2460, 88–2461, 88–2462, 88–2463, 88–2464, 88–2465, 88–2466, 88–2467, 88–2468, 88–2469, 88–2470, 88–2471, 88–2472, 88–2473, 88–2474, 88–2475, 88–2476, 88–2477, 88–2478, 88–2479, 88–2480, 88–2481, 88–2482, 88–2483, 88–2484, 88–2485, 88–2486, 88–2487, 88–2488, 88–2489, 88–2490, 88–2491, 88–2492, 88–2493, 88–2494, 88–2495, 88–2496, 88–2497, 88–2498, 88–2499, 88–2500, 88–2501, 88–2502, 88–2503, 88–2504, 88–2505, 88–2506, 88–2507, 88–2508, 88–2510, 88–2511, 88–2512, 88–2513, 88–2514, 88–2515, 88–2516, 88–2517, 88–2518, 88–2519, 88–2520, 88–2521, 88–2522, 88–2523, 88–2524, 88–2525, 88–2526, 88–2527, 88–2528, 88–2529, 88–2530, 88–2531, 88–2532, 88–2533, 88–2534, 88–2535, 88–2536, 88–2537, 88–2538, 88–2539, 88–2540, 88–2541, 88–2542, 88–2543, 88–2544—November 27, 1988.

P 88–2545—November 28, 1988

P 88–2546, 88–2547, 88–2548, 88–2549, 88–2550, 88–2551, 88–2552, 88–2553, 88–2554, 88–2555, 88–2556, 88–2557, 88–2558, 88–2559, 88–2560, 88–2561—November 27, 1988.

P 88–2562—December 4, 1988.

P 88–2563, 88–2564, 88–2565, 88–2566, 88–2567—November 27, 1988.

P 88–2568, 88–2569, 88–2570, 88–2571, 88–2572, 88–2573, 88–2574, 88–2575, 88–2576, 88–2577, 88–2578, 88–2579, 88–2580—November 28, 1988.

P 88–2581—December 4, 1988.

P 88–2582, 88–2583, 88–2584, 88–2585, 88–2586, 88–2587, 88–2588, 88–2589, 88–2590, 88–2591, 88–2592, 88–2593, 88–2594, 88–2595, 88–2596, 88–2597, 88–2598, 88–2599, 88–2600, 88–2601, 88–2602, 88–2603, 88–2604, 88–2605, 88–2606, 88–2607, 88–2608, 88–2609, 88–2610, 88–2611, 88–2612, 88–2613, 88–2614, 88–2615, 88–2616, 88–2617, 88–2618, 88–2619, 88–2620, 88–2621, 88–2622, 88–2623, 88–2624, 88–2625, 88–2626, 88–2627, 88–2628, 88–2629, 88–2630, 88–2631, 88–2632, 88–2633, 88–2634, 88–2635, 88–2636, 88–2637, 88–2638, 88–2639, 88–2640, 88–2641, 88–2642, 88–2643, 88–2644, 88–2645—November 28, 1988.

P 89–1—December 1, 1988.

P 89–2, 89–3, 89–4, 89–5, 89–6, 89–7, 89–8, 89–9, 89–10, 89–11, 89–12, 89–13, 89–14, 89–15, 89–16, 89–17—December 2, 1988.

P 89–18, 89–19—December 1, 1988.

P 89–20, 89–21, 89–22, 89–23, 89–24, 89–25—December 2, 1988.

P 89–26, 89–27, 89–28, 89–29, 89–30, 89–31, 89–32—December 1, 1988.

P 89–33, 89–34, 89–35, 89–36, 89–37, 89–38—December 2, 1988.

P 89–39, 89–40, 89–41, 89–42, 89–43, 89–44, 89–45, 89–46, 89–47, 89–48—December 3, 1988.

P 89–49, 89–50, 89–51—December 4, 1988.

P 89–52, 89–53–December 9, 1988.

P 89–54—December 10, 1988.

P 89–55, 89–56—December 11, 1988.

P 89–57—December 15, 1988.

P 89–58, 89–59, 89–60—December 16, 1988.

P 89–61, 89–62—December 17, 1988.

ADDRESS: Written comments, identified by the document control number "[OPTS–51717]" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Rm. L–100, 401 M Street SW., Washington, DC 20460, (202) 554–1305.

FOR FURTHER INFORMATION CONTACT: Lawrence Culleen, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 88–2331

Manufacturer. Confidential.

Chemical. (G) Amine–modified epoxy resin.

Use/Production. (G) Industrial paint product. Prod. range: 1,000,000–3,000,000 kg/yr.

P 88–2332

Manufacturer. Confidential.

Chemical. (G) Amine–modified epoxy resin.

Use/Production. (G) Industrial paint product. Prod. range: 1,000,000–3,000,000 kg/yr.

P 88–2333

Manufacturer. Confidential.

Chemical. (G) Functionalized polyurethane.

Use/Production. (S) Adhesive. Prod. range: 5,900–18,000 kg/yr.

P 88–2334

Manufacturer. Confidential.

Chemical. (G) Polyether polyamine.

Use/Production. (G) Coating (open dispersive). Prod. range: 1,500–900,000 kg/yr.

P 88–2335

Manufacturer. Confidential.

Chemical. (G) Aliphatic alicyclic polyester.
Use/Production. (G) Dispersively used coating. Prod. range: 325,000–650,000 kg/yr.

P 88–2337

Manufacturer. Dow Corning Corporation.
Chemical. (G) Organofunctional polysiloxane.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species(Rat). Acute dermal toxicity: LD50 2,000 mg/kg species(Rabbit). Eye irritation: moderate species(Rabbit). Skin irritation: strong species(Rabbit). Mutagenicity: negative.

P 88–2338

Manufacturer. Dow Corning Corporation.
Chemical. (G) Organofunctional polysiloxane.
Use/Production. (S) Curable siloxane coating. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species(Rat). Acute dermal toxicity: LD50 2,000 mg/kg species(Rabbit). Eye irritation: slight species(Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: negative.

P 88–2339

Manufacturer. Confidential.
Chemical. (G) N–Substituted aminophenol.
Use/Production. (S) Intermediate. Prod. range: Confidential.

P 88–2340

Manufacturer. Confidential.
Chemical. (G) N-Substituted-m-anisidine.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 88–2341

Manufacturer. Confidential.
Chemical. (G) Substituted phenol sulfonic acid.
Use/Production. (S) Intermediate. Prod. range: Confidential.

P 88–2342

Manufacturer. Exxon Chemical Company.
Chemical. (G) Sulfonated theroplastic polymer.
Use/Production. (S) Drilling fluid additive. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5.0 g/kg species (Rat). Acute dermal toxicity: LD50 3.6 g/kg species (Rabbit).

P 88–2343

Manufacturer. Confidential.
Chemical. (G) Methyl tertiary amyl ether.
Use/Production. (S) Automotive fuel component. Prod. range: Confidential.

P 88–2344

Importer. Confidential.
Chemical. (G) Phosphorodithioic acid esters, zinc salts.
Use/Import. (G) Petroleum additive. Import range: Confidential.

P 88–2345

Manufacturer. Confidential.
Chemical. (G) Substituted sulfonated amino hydroxy naphthalene.
Use/Production. (S) Intermediate. Prod. range: Confidential.

P 88–2346

Manufacturer. Confidential.
Chemical. (G) Alkyldiamine, N,N-{chloro-substituted sulfonatednaphthalenyl) (heterocycle)-sodium salt.
Use/Production. (S) Power dye. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 500 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–2347

Manufacturer. Confidential.
Chemical. (G) Alkyldiamine, N,N-(chloro-substituted sulfonatednaphthalenyl)-heterocycle)-sodium salt.
Use/Production. (S) Power dye. Prod. range: Confidential.

P 88–2348

Manufacturer. Confidential.
Chemical. (G) Alkyldiamine, N,N-(chloro-substituted sulfonatednaphthalenyl)-heterocycle)-sodium salt.
Use/Production. (S) Power dye. Prod. range: Confidential.

P 88–2349

Manufacturer. The Dow Chemical Company.
Chemical. (G) Trialkylene glycol ether.
Use/Production. (S) Paint solvent, cleaner solvent, ink solvent. Prod. range: Confidential.

P 88–2350

Manufacturer. Confidential.
Chemical. (G) Quaternized nicotinic acid.
Use/Production. (S) Electroplating zinc brightener. Prod. range: Confidential.

P 88–2351

Manufacturer. Confidential.
Chemical. (G) Quaternized nicotinic acid.
Use/Production. (S) Electroplating zinc brightener. Prod. range: Confidential.

P 88–2352

Importer. Confidential.
Chemical. (G) Silicic acid tetraalkyl ester.
Use/Import. (G) Adhesive additive. Import range: Confidential.

P 88–2353

Importer. Confidential.
Chemical. (G) Polyether urethane.
Use/Import. (S) Latex paint component. Import range: Confidential.

P 88–2354

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic copolymer.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 88–2355

Manufacturer. Confidential.
Chemical. (G) Methoxy polyethylene oxide diol.
Use/Production. (S) Coating. Prod. range: Confidential.

P 88–2356

Manufacturer. Confidential.
Chemical. (G) Methoxy polyethylene oxide diol.
Use/Production. (S) Coatings prepolymer. Prod. range: Confidential.

P 88–2357

Manufacturer. Confidential.
Chemical. Hydroxy functional acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 88–2358

Manufacturer. Confidential.
Chemical. (G) Methoxy polyethylene oxide diol.
Use/Production. (S) Coatings prepolymer. Prod. range: Confidential.

P 88–2359

Manufacturer. Mazer Chemicals, Div, of PPG Industries.
Chemical. (G) Amine-sulfonate salt.
Use/Production. (G) Component. Prod. range: Confidential.

P 88–2360

Manufacturer. Mazer Chemicals, Div, of PPG Industries.
Chemical. (G) Silicone fluid.
Use/Production. (G) Mold release agent. Prod. range: Confidential.

P 88–2362

Manufacturer. Mazer Chemicals, Div. of PPG Industries.
Chemical. (G) Alkoxylated ammonium sulfonated.
Use/Production. (G) Component. Prod. range: Confidential.

P 88–2363

Manufacturer. Mazer Chemicals, Div. of PPG Industries.
Chemical. (G) Alkoxylated ammonium salt.
Use/Production. (G) Component. Prod. range: Confidential.

P 88–2364

Manufacturer. Mazer Chemicals, Div. of PPG Industries.
Chemical. (G) Alkoxylated ammonium salt.
Use/Production. (G) Component. Prod. range: Confidential.

P 88–2365

Importer. Confidential.
Chemical. (S) 4-Benzoyl-N,N-dimethyl-(2-(2-methyl-1-oxy-2-propanenyloxy)benzene methanaminium chloride.
Use/Import. (S) Photocuring agent. Import range: Confidential.

P 88–2366

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Copolyimide.
Use/Production. (S) Confidential. Prod. range: Confidential.

P 88–2367

Importer. Nagase America Corporation.
Chemical. (G) Oxalic acid ester.
Use/Import. (S) Efficiency improver for heat-sensitive recording material. Import range: Confidential

P 88–2368

Importer. Mitsubishi International Corporation.
Chemical. (S) Butanadioic acid alkeny(C13–C16)dipotassium salt.
Use/Import. (S) Internal sizing for paper & paperboard. Import range: 200,000 kg/yr.

P 88–2369

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Novolac modified epoxy resin.
Use/Production. (S) Resin used in heavy duty coatings. Prod. range: Confidential.

P 88–2370

Importer. Reichhold Chemicals, Inc.
Chemical. (G) Styrene acrylate copolymer.
Use/Import. (S) Xerographic toner. Import range: Confidential.

P 88–2371

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Alpha-Pinene dipentene polymer.
Use/Production. (S) Tackifier for adhesive. Prod. range: Confidential.

P 88–2372

Manufacturer. Confidential.
Chemical. (G) Modified epoxy.
Use/Production. (G) Coating component. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–2373

Manufacturer. Minnesota Mining Manufacturing Co. (3M).
Chemical. (G) Isoctyl acrylate containing terpolymer.
Use/Production. (G) Adhesive. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit). Skin sensitization: negative species (Human).

P 88–2374

Importer. Henkel Corporation, Organic Products Div.
Chemical. (G) Complex polyurethane.
Use/Import. (G) Coatings. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–2375

Importer. Huls America Inc.
Chemical. (S) Titanium, butyl alcohol 2,ethyl-1,3-hexanediol complexes.
Use/Import. (S) Crosslinking agent in wire coatings. Import range: Confidential.

P 88–2376

Importer. Huls America Inc.
Chemical. (S) Titanium isopropyl alcohol 2-ethyl-1,3-hexaneddiolcomplexes.
Use/Import. (S) Crosslinking agent in wire coatings. Import range: Confidential.

P 88–2377

Manufacturer. Confidential.
Chemical. (G) Oxyalkylated tetraphthalated glycol ester.
Use/Production. (S) Insulating material component. Prod. range: 9,090,000–13,635,000 kg/yr.

P 88–2378

Manufacturer. Confidential.
Chemical. (G) Terephathalene acid polyester.
Use/Production. (S) Insulating material component. Prod. range: 7,272,000–10,909,000 kg/yr.

P 88–2379

Importer. Shin-Etsu Silicones of America.
Chemical. (G) Modified silica.
Use/Import. (S) Ingredient of silicone resins. Import range: 2,000–5,000 kg/yr.

P 88–2380

Manufacturer. Confidential.
Chemical. (G) Urethane extended epoxy methacrylate.
Use/Production. (S) Component of bowling ball veneer. Prod. range: 661,000–1,635,000 kg/yr.

P 88–2381

Manufacturer. Confidential.
Chemical. (G) Dichloro disubstituted heteropolycycledisulfonic acid.
Use/Production. (S) Intermediate. Prod. range: Confidential.

P 88–2382

Manufacturer. Confidential.
Chemical. (G) Disubstituted phenylaminobenzene azo substituted phenol compound with ammonia derivative.
Use/Production. (G) Open, non dispersive. Prod. range: Confidential.

P 88–2384

Manufacturer. Confidential.
Chemical. (G) Disubstituted phenylaminobenzene azo substituted phenol salt.
Use/Production. (S) Isolated intermediate. Prod. range: Confidential.

P 88–2385

Manufacturer. Confidential.
Chemical. (G) Cycloalkene alkanol dialkyl methylene.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

P 88–2386

Manufacturer. Confidential.
Chemical. (G) Terephthalate acid glucoside polyester.
Use/Production. (S) Insulating material component. Prod. range: 3,500,000–4,320,000 kg/yr.

P 88–2387

Manufacturer. Confidential.
Chemical. (G) Oxyalkylated terephthalate glucoside polyester.

Use/Production. (S) Insulation material component. Prod. range: 4,090,000–5,090,000 kg/yr.

P 88–2388

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester.
Use/Production. (S) Pigment binder. Prod. range: 13,200–16,000 kg/yr.

P 88–2389

Manufacturer. Confidential.
Chemical. (G) Poly-chloroethoxyamine comnpound.
Use/Production. (G) Metal finishing additive. Prod. range: Confidential.

P 88–2390

Manufacturer. Dexter Composites Div.
Chemical. (S) 4,4-(2,2,2-Trifluoro-1-(trifluoromethyl)ethylidene)bis-1,2-benzenedicarboxylic acid, ary-dimethyl ester.
Use/Production. (S) Resin component. Prod. range: 300–1,000 kg/yr.

P 88–2391

Importer. Confidential.
Chemical. (G) Substituted naphthaleene diazo alkali salt.
Use/Import. (S) Reactive dye for textiles. Import range: Confidential.

P 88–2392

Importer. Organic Dyestuffs Corporation.
Chemical. (G) Acid black 58.
Use/Import. (S) Resale. Import range: 4,000–8,000 kg/yr.

P 88–2393

Manufacturer. Confidential.
Chemical. (G) Water reducible alkyd resin.
Use/Production. (S) Industrial air-dry and baking finishing. Prod. range: Confidential.

P 88–2394

Manufacturer. Confidential.
Chemical. (G) Water reducible urethane alkyd.
Use/Production. (S) Air-dry water thinner varnishes and enamels. Prod. range: Confidential.

P 88–2395

Manufacturer. Confidential.
Chemical. (G) Water reducible alkyd resin.
Use/Production. (S) Industrial air-dry and baking finishes. Prod. range: Confidential.

P 88–2396

Manufacturer. Confidential.
Chemical. (G) Water reducible alkyd resin.
Use/Production. (S) Industrial air-dry and baking finishes. Prod. range: Confidential.

P 88–2397

Manufacturer. Confidential.
Chemical. (G) Starch graft copolymer latex.
Use/Production. (S) Binder for cellulosic, fiber glass fibers. Prod. range: 90,000–900,000 kg/yr.

P 88–2398

Manufacturer. Vista Chemical Company.
Chemical. (G) Linear alkylate sulfonate.
Use/Production. (G) Detergent manufacture. Prod. range: Confidential.

P 88–2399

Manufacturer. Alkaril Chemicals, Inc.
Chemical. (G) Alkoxylated myristic acid.
Use/Production. (G) Component. Prod. range: Confidential.

P 88–2400

Importer. Hoechst Celanese Corporation.
Chemical. (S) 4,4'-(2,2,2-Trifluoro-1-(trifluoromethyl)ethylidene)-bis-benzoic acid.
Use/Import. (S) Prestage material for polymeric materials. Import range: Confidential.

P 88–2401

Manufacturer. Hoechst Celanese Corporation.
Chemical. (S) 4,4'-(2,2,2-Trifluoromethyl-(ethylidene)-bis-benzamide.
Use/Production. (S) Intermediate for the manufacture of polymeric material. Prod. range: Confidential.

P 88–2402

Manufacturer. Hoechst Celanese Corporation.
Chemical. (S) 2,2-(4-Aminophenyl)-hexafluoropropene; 4,4'-(hexalfluoropropylidene)-bis-(phthalic anhydride).
Use/Production. (G) Component. Prod. range: 200–1,000 kg/yr.

P 88–2403

Manufacturer. Hoechst Celanese Corporation.
Chemical. (S) 4,4'=¶-(2,2,2-trifluoro-1-(trifluoromethyl)-ethylidene)-bis-benzeneamine.
Use/Production. (S) Industrial air dry primers. Prod. range: Confidential.

P 88–2404

Manufacturer. Hoechst Celanese Corporation.
Chemical. (S) Products from the reaction of 4,4'(2,2,2-trifluoromethyl)-ethylidene)-bis-benzamide(cas no. 10224-16-5) with sodium hypochlorite (as no. 7681-52-9) in the presence of sodium hydroxide (cas no. 1310-73-2).
Use/Production. (S) Intermediate for manufacture of polymeric material. Prod. range: Confidential.

P 88–2405

Manufacturer. Confidential.
Chemical. (G) Epoxy polyurethane.
Use/Production. (S) Binder for general industrial topcoat. Prod. range: 40,000–250,000 kg/yr.

P 88–2406

Manufacturer. Confidential.
Chemical. (G) Cyclic aliphatic polyester resin.
Use/Production. (S) Binder for automative primer. Prod. range: 200,000–500,000 kg/yr.

P 88–2407

Importer. High Point Chemical Corporation.
Chemical. (G) 1-Alkyl, n-hydroxyl,n,n dimethylquarternary ammonium salt.
Use/Import. (G) Antistic agent. Import range: Confidential.

P 88–2408

Manufacturer. Confidential.
Chemical. (G) Polyamide graft polymer.
Use/Production. (G) Component of a blend to enhance resin melt viscosity. Prod. range: Confidential.

P 88–2409

Manufacturer. Confidential.
Chemical. (G) Polyamide graft polymer.
Use/Production. (G) Component of a blend to enhance resin melt viscosity. Prod. range: Confidential.

P 88–2410

Manufacturer. Confidential.
Chemical. (G) Polylamide graft polymer.
Use/Production. (G) Component of a blend to enhance resin melt viscosity. Prod. range: Confidential.

P 88–2411

Manufacturer. Confidential.
Chemical. (G) Polyamide graft polymer.
Use/Production. (G) Component of a blend to enhance resin melt viscosity. Prod. range: Confidential.

P 88–2412

Importer. High Point Chemical Corporation.

Chemical. (G) Fatty acids, Diester with aromatic diol alkoxylated.
Use/Import. (G) Lubricants. Import range: Confidential.

P 88–2413

Importer. High Point Chemical Corporation.
Chemical. (G) Saturated alkyl dicarboxylic acid diester with branched alkyl alcohol.
Use/Import. (G) Lubricant. Import range: Confidential.

P 88–2414

Importer. High Point Chemical Corporation.
Chemical. (G) Unsaturated fatty acid ester with branched alkyl alcohol.
Use/Import. (G) Lubricants. Import range: Confidential.

P 88–2415

Importer. High Point Chemical Corporation.
Chemical. (G) 1-Alkyl N-hydroxyethyl N,N-dimethylquaternaryammonium salt with acid.
Use/Import. (G) Antistatic agent. Import range: Confidential.

P 88–2416

Manufacturer. Minnesota Mining & Manufacturing Co. (3M).
Chemical. (G) Fluorinated acrylate polymer containing acrylic acid.
Use/Production. (G) Protective coating. Prod. range: Confidential.

P 88–2417

Manufacturer. Amoco Corporation.
Chemical. (G) Epoxy/amine adduct.
Use/Production. (S) Component in epoxy resin formulation. Prod. range: 480–1,200 kg/yr.

P 88–2418

Manufacturer. Amoco Corporation.
Chemical. (G) Epoxy/amine adduct.
Use/Production. (S) Component in epoxy resin system. Prod. range: 115–900 kg/yr.

P 88–2419

Manufacturer. Amoco Corporation.
Chemical. (G) Epoxy/amine adduct.
Use/Production. (S) Component in epoxy resin system. Prod. range: 215–1,700 kg/yr.

P 88–2420

Importer. Sherex Chemical Company, Inc.
Chemical. (G) Alkyl silane.
Use/Import. (S) Co-catalyst for olefin polymerization. Import range: Confidential.

P 88–2421

Importer. Sherex Chemical Company, Inc.
Chemical. (G) Thermoplastic polyamide.
Use/Import. (S) Hot melt adhesive for automotive filters. Import range: Confidential.

P 88–2422

Manufacturer. Sherex Chemical Company, Inc.
Chemical. (G) Alkoxylated diol.
Use/Production. (G) Surfactant. Prod. range: Confidential.

P 88–2423

Manufacturer. Sherex Chemical Company, Inc.
Chemical. (G) Polyamide.
Use/Production. (S) Typewritter ribbon ink vehicle. Prod. range: Confidential.

P 88–2424

Manufacturer. Confidential.
Chemical. (G) Polymeric product of the reaction of epoxy with organic acids and anhydrides.
Use/Production. (G) Polymer for substrates. Prod. range: Confidential.

P 88–2425

Manufacturer. Confidential.
Chemical. (G) Polymeric product of the reaction of epoxy with organic acids and anhydrides.
Use/Production. (G) Polymer for substrates. Prod. range: Confidential.

P 88–2426

Manufacturer. Confidential.
Chemical. (G) Polymeric product of the reaction of epoxy with organic acids and anhydrides.
Use/Production. (G) Polymer for substrates. Prod. range: Confidential.

P 88–2427

Manufacturer. Confidential.
Chemical. (G) Polymeric product of the reaction of epoxy with organic acids and anhydrides.
Use/Production. (G) Polymer for substrates. Prod. range: Confidential.

P 88–2428

Manufacturer. Amoco Corporation.
Chemical. (G) Aromatic polyimide.
Use/Production. (G) Protective coating. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity LD50 7,000 mg/kg species(Rat). Acute dermal toxicity: LD50) 8,000 mg/kg species(Rabbit).

P 88–2429

Manufacturer. Amoco Corporation.
Chemical. (G) Aromatic polyimide.
Use/Production. (G) Protective coating. Prod. range: Confidential.

P 88–2430

Importer. Degussa Corporation.
Chemical. (S) Bis(3-Trimethoxysilylpropyl)polysulfane.
Use/Import. (G) Coupling agent. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >6,106 mg/kg species(Rat). Eye irritation: none species(Rabbit). Skin irritation: slight species(Rabbit).

P 88–2431

Manufacturer. Confidential.
Chemical. (G) Styrenic-acrylic copolymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 88–2432

Manufacturer. Confidential.
Chemical. (G) Styrene-acrylic copolymer.
Use/Production. (S) General purpose coating. Prod. range: Confidential.

P 88–2433

Importer. Degussa Corporation.
Chemical. (S) 1,2-Dihydroxy-tetradecane.
Use/Import. (G) Polymer additive. Import range: Confidential.

P 88–2434

Manufacturer. Calloway Chemical Company.
Chemical. (G) Diisoctyl sodium sulfosuccinate (DOSS).
Use/Production. (S) Anionic surfactant. Prod. range. Confidential.

P 88–2435

Manufacturer. Callaway Chemical Company.
Chemical. (S) Poly(oxy-1,2-ethanediyl)-(2-carboxyethyl)-w-hydroxy, c11-c14-iso, c13-rich alkyl ethers, sodium salt.
Use/Production. (S) Anionic surfactant. Prod. range: Confidential.

P 88–2436

Manufacturer. Callaway Chemical Company.
Chemical. (S) Isooctanol reacted products with phosphorous oxide (P205) and alcohols, C11-C1,-iso-,C12-rich ethoxylated.
Use/Production. (S) Wetter/detergent/emulsifier for fibers. Prod. range: Confidential.

P 88–2437

Manufacturer. Callow Chemical Company.

Chemical. (S) Isooctanol, reaction products with phosphorous oxide (p2o5) and alcohols, c11–14–iso, c13–rich, ethylated, potassium salts.

Use/Production. (S) Anionic surfactant. Prod. range: Confidential.

P 88–2438

Manufacturer. Tennant Company.

Chemical. (G) Urethane resin.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 88–2439

Importer. Stockhausen Inc.

Chemical. (G) Acrylic acid, copolymer with na cationic acid derivate.

Use/Import. (S) Auxiliary for manufacturing paper. Import range: 100,000–200,000 kg/yr.

P 88–2440

Manufacturer. E.I. du Pont de Nemours & Co. (Inc.).

Chemical. (G) Organophosphorous ester.

Use/Production. (G) Polymer catalyst. Prod. range: Confidential.

P 88–2441

Manufacturer. E.I. du Pont de Nemours & Co. (Inc.).

Chemical. (G) Organophosphorous acid.

Use/Production. (G) Polymer catalyst. Prod. range: Confidential.

P 88–2442

Importer. Atlantic Industries, Inc.

Chemical. (G) Substituted aromatic azo compound.

Use/Import. (S) Reactive dye for textile. Import range: Confidential.

P 88–2444

Importer. Atlantic Industries, Inc.

Chemical. (G) Substituted aromatic azo compound.

Use/Import. (S) Reactive dye for textile. Import range: Confidential.

P 88–2445

Importer. Atlantic Industries, Inc.

Chemical. (G) Substituted aromatic azo compound.

Use/Import. (S) Reactive dye for textile. Import range: Confidential.

P 88–2446

Importer. Atlantic Industries, Inc.

Chemical. (G) Substituted aromatic azo compound.

Use/Import. (S) Reactive dye for textile. Import range: Confidential.

P 88–2447

Importer. Atlantic Industries, Inc.

Chemical. (G) Substituted aromatic azo compound.

Use/Import. (S) Reactive dye for textile. Import range: Confidential.

P 88–2448

Importer. Atlantic Industries, Inc.

Chemical. (G) Substituted aromatic azo compound.

Use/Import. (S) Reactive dye for textile. Import range: Confidential.

P 88–2449

Importer. Atlantic Industries, Inc.

Chemical. (G) Substituted heterocyclic azo.

Use/Import. (S) Disperse dye for textile. Import range: Confidential.

P 88–2450

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylic copolymer.

Use/Production. (S) Coating. Prod. range: Confidential.

P 88–2451

Importer. Marubeni America Corporation.

Chemical. (S) Methyl methacrylate, styrene, 2-ethylhexyl acrylate methacrylic acid ammonium salt polymer.

Use/Import. (S) Penetration agent for transperences paper. Import range: 60,000–500,000 kg/yr.

P 88–2452

Importer. Marubeni America Corporation.

Chemical. (G) Polyvinylalcohol, acrylamide and 2-acrylamide-2-methylpropane-sulfonic acid graft copolymer.

Use/Import. (S) Coating binder for pressure sensitive paper. Import range: 60,000–500,000 kg/yr.

P 88–2453

Importer. Marubeni America Corporation.

Chemical. (S) Polyvinylalcohol, acrylamide, acrylonitrile graft copolymer.

Use/Import. (S) Coating binder for ink, jet recording paper. Import range: 60,000–500,000 kg/yr.

P 88–2454

Importer. Marubeni America Corporation.

Chemical. (S) Polyvinylalcohol, allylacetoacetate, acrylamide graft copolymer.

Use/Import. (S) Coating binder for ink-jet recording paper. Import range: 60,000–500,000 kg/yr.

P 88–2455

Importer. Marubeni America Corporation.

Chemical. (S) Polyvinylalcohol, acrylamide and sodium styrenesulfonate graft copolymer.

Use/Import. (S) Coating agent for offset printing plate. Import range: 60,000–500,000 kg/yr.

P 88–2456

Importer. Marubeni America Corporation.

Chemical. (S) Acrylamide, acrylonitrile, 2-hydroxyethyl metharylate polymer.

Use/Import. (S) Penetration agent for released paper. Import range: 60,000–500,000 kg/yr.

P 88–2457

Importer. Marubeni America Corporation.

Chemical. (S) Polyvinylalcohol, acrylamide, 2-acrylamido-2-mehylpropanesulfonic acid, 2-hydroxypropyl mhacrylate graft copolymer.

Use/Import. (S) Coating binder for pressure sensitive paper. Import range: 60,000–500,000 kg/yr.

P 88–2458

Manufacturer. Confidential.

Chemical. (G) Tin chelate.

Use/Production. (G) Ingredient for coating. Prod. range: Confidential.

P 88–2459

Importer. Ciga-Geigy Corporation.

Chemical. (S) Substituted dioxazine dye.

Use/Import. (G) Textile dye. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species(Rat). Acute dermal toxicity: LD50 >2,000 mg/kg species(Rabbit). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: negative. Skin sensitization: negative species(Guinea pig).

P 88–2460

Manufacturer. ARCO Chemical Company.

Chemical. (G) Polyalkylene carbonate.

Use/Production. (S) Pattern production for last foam casting. Prod. range: Confidential.

P 88–2461

Importer. Confidential.

Chemical. (G) Fatty acid, rare earth salt.

Use/Import. (G) Processing aid. Import range: Confidential.

P 88–2462

Importer. Confidential.

Chemical. (G) Polydimethylsiloxane, modified.
Use/Import. (G) Polymer additive. Import range: Confidential.

P 88–2463

Manufacturer. Confidential.
Chemical. (G) Trimethylopropane fatty acid diacrylate.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 88–2464

Importer. Dow Corning Corporation.
Chemical. (S) Silicic acid, teraethyl ester, reaction products with hexamethyldisiloxane.
Use/Import. (G) Resist resin. Import range: 100–500 kg/yr.

P 88–2465

Importer. Dow Corning Corporation.
Chemical. (S) Silicic acid, teraethyl ester, reaction products with ethoxytrimethylsilane.
Use/Import. (G) Resist resin. Import range: 100–300 kg/yr.

P 88–2466

Importer. Dow Corning Corporation.
Chemical. (S) Silicic acid, tetraethyl ester, reaction products with (3-mercaptopropyl) trimethoxysilane and ethoxytrimethylsilane.
Use/Import. (G) Resist resin. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >15 g/kg species(Rat). Skin irritation: negligible species(Rabbit).

P 88–2467

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted anthraquinone.
Use/Import. (S) Reactive disperse dye. Import range: Confidential.

P 88–2468

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted heterocyclic azo.
Use/Import. (S) Reactive dispersive dye for textiles. Import range: Confidential.

P 88–2469

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted heterocyclic azo benzeneamine.
Use/Import. (S) Dyeing and printing of textiles. Import range: Confidential.

P 88–2470

Manufacturer. Confidential.
Chemical. (G) Azo compound.
Use/Production. (G) Raw material for synthetic resins and fibers. Prod. range: Confidential.

P 88–2471

Importer. Confidential.
Chemical. (G) Polyester resin.
Use/Import. (G) Resin for photo-copying. Import range: Confidential.

P 88–2472

Importer. Confidential.
Chemical. (G) Polyester resin.
Use/Import. (G) Resin for photo-copying. Import range: Confidential.

P 88–2473

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted heterocyclic azo benzeneamine.
Use/Import. (S) Dyeing and printing of textile. Import range: Confidential.
Toxicity Data. Mutagenicity: positive.

P 88–2474

Manufacturer. Milliken & Company.
Chemical. (G) Polyoxyalkylene bicyclohexanol.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 88–2475

Manufacturer. Milliken & Company.
Chemical. (G) Polyoxyalkylene bicyclohexanol.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 88–2476

Manufacturer. Milliken & Company.
Chemical. (G) Polyoxyalkylene bicyclohexanol.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 88–2477

Manufacturer. Milliken & Company.
Chemical. (G) Chromophore substituted polyoxyalkylene.
Use/Production. (G) Colorant. Prod. range: Confidential.

P 88–2478

Manufacturer. Milliken & Company.
Chemical. (G) Chromophore substituted polyoxyalkylene.
Use/Production. (G) Colorant. Prod. range: Confidential.

P 88–2479

Manufacturer. Milliken & Company.
Chemical. (G) Chromophore substituted polyoxyalkylene.
Use/Production. (G) Colorant. Prod. range: Confidential.

P 88–2480

Manufacturer. Milliken & Company.
Chemical. (G) Chromophore substituted polyoxyalkylene.
Use/Production. (G) Colorant. Prod. range: Confidential.

P 88–2481

Manufacturer. Milliken & Company.
Chemical. (G) Substituted furanone.
Use/Production. (G) Raw material for colorant. Prod. range: Confidential.

P 88–2482

Importer. Atlantic Industries, Inc.
Chemical. (G) Substituted heterocyclic disazo.
Use/Import. (S) Reactive dispersive dye for textile. Import range: Confidential.

P 88–2483

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Substituted naphthol.
Use/Production. (G) Chemical intermediate. Prod. range: 66,000–91,000 kg/yr.

P 88–2484

Importer. Hoechst Celanese Corporation.
Chemical. (G) Ethoxylated substituted naphthol.
Use/Import. (S) Processing aid. Import range: 900–3,400 kg/yr.

P 88–2485

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Tetra substituted naphthol.
Use/Production. (G) Chemical intermediate. Prod. range: 50,000 kg/yr.

P 88–2486

Importer. Hoechst Celanese Corporation.
Chemical. (G) Tetra substituted pyrazole.
Use/Import. (S) Coloration of plastics. Import range: 500–2,500 kg/yr.

P 88–2487

Importer. High Point Chemical Corporation.
Chemical. (G) Polyoxyethylene alkylaryl phenol.
Use/Import. (G) Lubricants/drying assistant. Import range: Confidential.

P 88–2488

Importer. High Point Chemical Corporation.
Chemical. (G) Polyoxyethylene alkylaryl ether ammonium sulfate.
Use/Import. (G) Lubricants/dyeing assistants. Import range: Confidential.

P 88–2489

Importer. High Point Chemical Corporation.
Chemical. (G) Polypropylene alkylaryl phenol.

Use/Import. (G) Lubricants/dyeing assistants. Import range: Confidential.

P 88–2490

Importer. Confidential.
Chemical. (G) Poly(oxy-1,2-ethandiyl)-hydro-w-hydroxy and oxepanone, polymer with n-decanol, reaction product with benzene, diisocyanatomethyl.
Use/Import. (G) Paint additive, open, nondispersive use. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–2491

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Glycidyl functional solid acrylic polymer.
Use/Production. (S) Resin used in powered coating. Prod. range: Confidential.

P 88–2492

Manufacturer. Reichhold Chemicals, Inc.
Chemical.(G) Alkyd modified triazine polyol.
Use/Production. (S) Printing ink/paint. Prod. range: Confidential.

P 88–2493

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Rosin—phenolic modified alkyd.
Use/Production. (S) Industrial air dry primers. Prod. range: Confidential.

P 88–2494

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Blocked isocyanate compound.
Use/Production. (S) Metal coating. Prod. range: Confidential.

P 88–2495

Importer. Reichhold Chemicals, Inc.
Chemical. (G) Fluorochloroolefin copolymer.
Use/Import. (S) Component of exterior coating. Import range: Confidential.

P 88–2496

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Chlorinated polypropylene modified acrylic copolymer.
Use/Production. (S) Coating for polypropylene goods. Prod. range: Confidential.

P 88–2497

Manufacturer. Confidential.
Chemical. (G) Polyester/acrylic polymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 88–2498

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Modified amino resin.
Use/Production. (S) Thermoset coatings. Prod. range: Confidential.

P 88–2499

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Modified polyamine.
Use/Production. (S) Industrial coatings. Prod. range: Confidential.

P 88–2500

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Styrene-acrylic copolymer.
Use/Production. (S) Resin used in automotive and exterior paint. Prod. range: Confidential.

P 88–2501

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Chlorinated polypropylene modified acrylic copolymer.
Use/Production. (S) Resin used in modified of acrylic resin. Prod. range: Confidential.

P 88–2502

Importer. Reichhold Chemicals, Inc.
Chemical. (G) Styrene acrylate copolymer.
Use/Import. (S) Binder used in xerographic toner. Import range: Confidential.

P 88–2503

Manufacturer. Reichhold Chemicals, Inc.
Chemical. Novolac modified resin.
Use/Production. (S) Component of solvent resistant coating. Prod. range: Confidential.

P 88–2504

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Phenolic modified alkyd resin.
Use/Production. (S) Industrial air dry primer. Prod. range: Confidential.

P 88–2505

Importer. Reichhold Chemicals, Inc.
Chemical. (G) Glycidyl functional acrylic copolymer.
Use/Import. (S) Resin used in powder coating. Import range: Confidential.

P 88–2506

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Crosslinked butadiene-styrene polymer.
Use/Production. (S) Nonwoven binder. Prod. range: Confidential.

P 88–2507

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Short oil alkyd resin.
Use/Production. (S) Industrial air-dry coating. Prod. range: Confidential.

P 88–2508

Manufacturer. Confidential.
Chemical. (G) Polyester.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 88–2509

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic copolymer.
Use/Production. (S) Coating. Prod. range: Confidential.

P 88–2510

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 88–2511

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 88–2512

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 88–2513

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 88–2514

Importer. Confidential.
Chemical. (G) Alkyl carboxylic acid ester.
Use/Import. (S) Mold release agent. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50>5,000 mg/kg species (Rat). Mutagenicity: negative.

P 88–2515

Importer. Confidential.
Chemical. (G) Bis-ketimine.

Use/Import. (S) Industrial maintenance. Import range: 3,000–25,000 kg/yr.

Toxicity Data. Eye irritation: moderate species (Rabbit). Skin irritation: strong species (Rabbit).

P 88–2516

Importer. Confidential.

Chemical. (G) Butadiene, polymer with acrylonitrile, susbstitutedethylene substituted-ethylene, substituted-substituted ethylenes.

Use/Import. (S) Auxiliary for textile. Import range: Confidential.

P 88–2517

Importer. Confidential.

Chemical. (G) Metal salt of a phosphoric acid derivative.

Use/Import. (S) Heat stabilizer for nylon. Import range: Confidential.

P 88–2518

Importer. Confidential.

Chemical. (S) 2-phosphono-1,2,4-butane tricarboxylic acid, potassium salt.

Use/Import. (S) Scale and corrosion inhibitor. Import range: 1,500–3,000 kg/yr.

P 88–2519

Manufacturer. Products Research & Chemical Corp.

Chemical. (G) Isocyanate terminated polyester polyol.

Use/Production. (S) Polymer for adhesives/coatings/sealants. Prod. range: 10,000–50,000 kg/yr.

P 88–2520

Manufacturer. Products Research & Chemical Corp.

Chemical. (G) Isocyanate terminated polyester polyol.

Use/Production. (S) Polymer for adhesives/coatings/sealants. Prod. range: 10,000–50,000 kg/yr.

P 88–2521

Manufacturer. Products Research & Chemicals Corp.

Chemical. (G) Isocyanate terminated polyethioether.

Use/Production. (S) Polymer for adhesives/coatings/sealants. Prod. range: 10,000–50,000 kg/yr.

P 88–2522

Manufacturer. Products Research & Chemicals Corp.

Chemical. (G) Isocyanate terminated polythioether.

Use/Production. (S) Polymer for adhesives/coatings/sealants. Prod. range: 10,000–50,000 kg/yr.

P 88–2523

Manufacturer. Products Research & Chemical Corp.

Chemical. (G) Isocyanate terminated polypropylene oxide triol.

Use/Production. (S) Polymer for adhesives/coatings/sealants. Prod. range: 10,000–50,000 kg/yr.

P 88–2524

Manufacturer. Products Research & Chemical Corp.

Chemical. (G) Isocyanate terminated polyether glycol.

Use/Production. (S) Polymer for adhesives/coatings/sealants. Prod. range: 10,000–50,000 kg/yr.

P 88–2525

Manufacturer. Confidential.

Chemical. (G) Isocyanate terminated polyester polyol.

Use/Production. (S) Polymer for adhesives/coatings/sealants. Prod. range: 10,000–50,000 kg/yr.

P 88–2526

Manufacturer. Products Research & Chemical Corp.

Chemical. (G) Isocyanate terminated polyester polyol.

Use/Production. (S) Polymer for adhesives/coatings/sealants. Prod. range: 10,000–50,000 kg/yr.

P 88–2527

Manufacturer. Products Research & Chemical Corp.

Chemical. (G) Isocyanate terminated polythioether.

Use/Production. (S) Polymer for adhesives/coatings/sealants. Prod. range: 10,000–50,000 kg/yr.

P 88–2528

Manufacturer. Chattem Chemicals.

Chemical. (S) 3,5-Di-tert-butyl salicyclic acid; zinc salt.

Use/Production. (S) Carbon copy paper. Prod. range: Confidential.

P 88–2529

Manufacturer. Confidential.

Chemical. (G) Alkyl phosphate ester ammonium salt.

Use/Production. (G) Additive for electrical & industrial industry. Prod. range: Confidential.

P 88–2530

Manufacturer. Confidential.

Chemical. (G) Alkylbenzenesulfonic acid, sodium salt.

Use/Production. (G) Additive for cleaning & energy industrial. Prod. range: Confidential.

P 88–2531

Manufacturer. Confidential.

Chemical. (G) Alkylbenzenesulfonic acid.

Use/Production. (G) Additive for lubricating & cutting fluids. Prod. range: Confidential.

P 88–2532

Manufacturer. Dexter Composites Division.

Chemical. (S) 4,4'-(hexafluoroisopropylidene)-bis(phthalic anhydride; P-Diaminobenzene; 5-Norborene-2, 3-dicarboxylic acid monomethyl-ester.

Use/Production. (S) Molding compounds. Prod. range: 100–400 kg/yr.

P 88–2533

Importer. Confidential.

Chemical. (G) Substituted benzoic acid.

Use-Import. (G) Chemical intermediate. Import range: Confidential.

P 88–2534

Manufacturer. Confidential.

Chemical. (G) Disubstituted phenyl azo substituted naphthalene sulfonic acid salt.

Use/Production. (S) Isolated intermediate. Prod. range: Confidential.

P 88–2535

Manufacturer. Lonza Inc.

Chemical. (G) Polyglycerol, fatty acid ester of.

Use/Production. (G) Additive for plastics processing. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species(Rat). Eye irritation: slight species(Rabbit). Skin irritation: slight species(Rabbit).

P 88–2536

Manufacturer. Lonza, Inc.

Chemical. (S) Aromatic polyol alkoxylated acetate ester of.

Use/Production. (G) Additive for textile processing. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species(Rat). Eye irritation: slight species(Rabbit). Skin irritation: slight species(Rabbit).

P 88–2537

Importer. Lonza Inc.

Chemical. (G) Fluorinated alkyl ester of butonic acid.

Use/Import. (G) Intermediate for hericide synthesis. Import range: Confidential.

P 88–2538

Manufacturer. Confidential.

Chemical. (G) Polyol blend.

Use/Production. (G) Insulation. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species(Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species(Rat). Eye irritation: slight species(Rabbit). Skin irritation: slight species(Rabbit).

P 88–2539

Importer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Import. (G) Temporary coating. Import range: Confidential.

P 88–2540

Importer. Confidential.

Chemical. (G) Nitrate esters.

Use/Import. (G) Fuel additive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1,000–3,000 species(Rat). Eye irritation: slight species(Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: positive.

P 88–2541

Manufacturer. Confidential.

Chemical. (G) Complex acrylate/methacrylate copolymer.

Use/Production. (G) Industrial coating as a adhesive. Prod. range: 10,000–111,000 kg/yr.

P 88–2542

Manufacturer. Confidential.

Chemical. (G) Functionalized ploymerized alkenes.

Use/Production. (G) Dispersively used coating. Prod. range: 100,000–300,000 kg/yr.

P 88–2543

Manufacturer. Confidential.

Chemical. (G) Polymer of styrene and mixed acrylate or methacrylates.

Use/Production. (G) Industrial coating having an open use. Prod. range: 25,000–31,000 kg/yr.

P 88–2544

Manufacturer. Confidential.

Chemical. (G) Acrylate methacrylate polymer.

Use/Production. (G) Industrial coating. Prod. range: 36,600–109,800 kg/yr.

P 88–2545

Manufacturer. Confidential.

Chemical. (G) Unneutralized alkyd resin.

Use/Production. (S) Alkyd intermediate resin. Prod. range: 10,000–100,000 kg/yr.

P 88–2546

Manufacturer. Confidential.

Chemical. (G) Substituted amines.

Use/Production. (G) Dispersively used coating. Prod. range: 1,000–3,000 kg/yr.

P 88–2547

Manufacturer. Confidential.

Chemical. (G) Neutralized alkyd resin.

Use/Production. (S) Binder resin in general industrial topcoat. Prod. range: 10,000–100,000 kg/yr.

P 88–2548

Manufacturer. Confidential.

Chemical. (G) Neutralized alkyd resin.

Use/Production. (S) Binder resin in general industrial topcoat. Prod. range: 10,000–100,000 kg/yr.

P 88–2549

Manufacturer. Confidential.

Chemical. (G) Neutralized alkyd resin.

Use/Production. (S) Binder resin in general industrial topcoat. Prod. range: 10,000–100,000 kg/yr.

P 88–2550

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer/amine product.

Use/Production. (G) Industrial coating. Prod. range: 40,000–49,000 kg/yr.

P 88–2551

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylate/methacrylate.

Use/Production. (G) Dispersively used topcoat. Prod. range: 10,000–120,000 kg/yr.

P 88–2552

Manufacturer. Confidential.

Chemical. (G) Acrylic polyester.

Use/Production. (G) Industrial coating. Prod. range: 55,400–166,000 kg/yr.

P 88–2553

Manufacturer. Confidential.

Chemical. (G) Polyurethane.

Use/Production. (G) Industrial coating. Prod. range: 62,000 kg/yr.

P 88–2554

Manufacturer. Confidential.

Chemical. (G) Styrenated copolymer of acrylates and a methacrylate.

Use/Production. (G) Openly used industrial coating. Prod. range: 50,000–100,000 kg/yr.

P 88–2555

Manufacturer. Confidential.

Chemical. (G) Functional methacrylic styrenated acrylic polymer.

Use/Production. (S) Flow control agent for automative topcoat. Prod. range: 7,000–28,000 kg/yr.

P 88–2556

Manufacturer. General Electric Plastics.

Chemical. (G) Epoxy triazine per sumitter.

Use/Production. (S) Intermediate for production of resins. Prod. range: Confidential.

P 88–2557

Manufacturer. General Electric Plastics.

Chemical. (G) Modified aromatic polyether condensed with epoxy triazine.

Use/Production. (S) Thermoplastic resin. Prod. range: Confidential.

P 88–2558

Manufacturer. General Electric Plastics.

Chemical. (G) Aromatic polyether copolymer with polyester.

Use/Production. (S) Thermoplastic resin. Prod. range: Confidential.

P 88–2559

Manufacturer. Callaway Chemical Company.

Chemical. (G) Octadecanoic acid, esters with alcohols, c11-14-iso-,c13-rich, ethoxylated.

Use/Production. (S) Fiber lubricant & softener. Prod. range: Confidential.

P 88–2560

Manufacturer. Callaway Chemical Company.

Chemical. (G) Octadecanoic acid, esters with alcohol, c11-14-iso-,c13-rich.

Use/Production. (S) Fiber lubricant & softener. Prod. range: Confidential.

P 88–2561

Manufacturer. Callaway Chemical Company.

Chemical. (S) Alcohols, c11-14-iso-, c13-rich, ethoxylated, reaction products with phosphorus oxide (p205).

Use/Production. (S) Wetter/detergent/emulsifier. Prod. range: Confidential.

P 88–2562

Manufacturer. Callaway Chemical Company.

Chemical. (S) Alcohols, c11-14-iso-, c13-rich, reaction products with phosphorous oxide (p205) and alcohols, c11-14-iso-,c13-rich, ethoxylated.

Use/Production. (S) Wetter/detergent/emulsifier. Prod. range: Confidential.

P 88–2563

Manufacturer. Callaway Chemical Company.

Chemical. (S) Alcohols, c11-14-iso-, c13-rich, reaction products with phosphorous oxide (p205) and alcohols, c11-14-iso-,c13-rich, ethoxylated, potassium salts.
Use/Production. (S) Anionic surfactant. Prod. range: Confidential.

P 88–2564

Manufacturer. Callaway Chemical Company.
Chemical. (S) Alcohols, c11-14-iso-, c13-rich, ethoxylated, reaction products with phosphorous oxide (p205), potassium salts.
Use/Production. (S) Anionic surfactant. Prod. range: Confidential.

P 88–2565

Importer. Em Industries, Inc.
Chemical. (S) 4-(2-Hydroxyethoxy)phenyl(2-chloro-2-popyl)ketone.
Use/Import. (S) Photo initiated. Import. range: 300–2,000 kg/yr.

P 88–2566

Importer. Confidential.
Chemical. (G) Atomatic methacrylate.
Use/Import. (G) Cement. Import. range: Confidential. *Toxicity Data.* Acute oral toxicity: LD50 <1,000 mg/kg species (Rat). Skin irritation: slight species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea pig).

P 88–2567

Importer. Confidential.
Chemical. (G) Substituted triazine, alkali salt.
Use/Import. (S) Reactive dye for textile. Import range: Confidential.

P 88–2568

Importer. Serex Chemical Company, Inc.
Chemical. (G) Glycerol glycidyl ether.
Use/Import. (S) Reactive deluent for epoxy resins.
Import range: Confidential.

P 88–2569

Importer. Confidential.
Chemical. (G) Polyester polyol.
Use/Import. (S) Automative refinishing. Import range: 8,000–40,000 kg/yr.

P 88–2570

Importer. Confidential.
Chemical. (G) Hydroxy terminated polyacrylate.
Use/Import. (S) Automative repair finishes. Import range: 10,000–100,000 kg/yr.

P 88–2571

Importer. Confidential.
Chemical. (G) Aliphatic polyisocyanate.
Use/Import. (S) Plastic coatings. Import range: 50,000–125,000 kg/yr.

P 88–2572

Importer. Confidential.
Chemical. (G) Polyether-polyurethane.
Use/Import. (S) Heat sensitizing of rubber latices. Import range: Confidential.

P 88–2573

Importer. Confidential.
Chemical. (G) Substituted, substituted phenazine.
Use/Import. (S) Colorant for polymers. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species(Rat). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit).

P 88–2574

Importer. Confidential.
Chemical. (S) 2,2'-{2,2-dimethyl-1,3-propanediylbis (bis)}bis (5,5-dimethyl-1-1,3,2-dioxaborinane).
Use/Import. (S) Adhesive additive. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species(Rat). Eye irritation: slight species(Rabbit). Skin irritation: negligible species(Rabbit).

P 88–2575

Importer. Confidential.
Chemical. (S) N-(1,1-dimethylpropyl)-2-benzothiazole sulfenamide.
Use/Import. (S) Chemical accelerator for rubber vulcanizate. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species(Rat). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: negative.

P 88–2576

Importer. Confidential.
Chemical. (S) Di(phenoxyethyl)formal.
Use/Import. (S) Plasticizer for paints. Import range: 1,000–1,200 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 8.93 ml/kg species(Rat).

P 88–2577

Importer. Thompson-Hayward Chemical Company.
Chemical. (G) Alkyl aryl ethoxylate.
Use/Import. (S) Coating component. Import range: 218,000–227,000 kg/yr.

P 88–2578

Manufacturer. Confidential.
Chemical. (G) Maleinized fatty acid derivative.
Use/Production. (S) Coating component. Prod. range: 218,000–227,000 kg/yr.

P 88–2579

Manufacturer. Confidential.
Chemical. (G) Polyester polyol.
Use/Production. (S) Printing inks. Prod. range: 182,000–363,000 kg/yr.

P 88–2580

Manufacturer. Confidential.
Chemical. (G) Halogenated polyester polyol.
Use/Production. (S) Fire retardant. Prod. range: 45,000–450,000 kg/yr.

P 88–2581

Manufacturer. Confidential.
Chemical. (G) Aromatic polyether prepolymer-isocyanate terminated.
Use/Production. (S) Medical devices. Prod. range: 23,000–34,000 kg/yr.

P 88–2582

Importer. Marubeni America Corporation.
Chemical. (S) {poly-(bisphenol a-2-hydroxy proply ether)} poly-capralactone graft polymer.
Use/Import. (S) Epoxy resin for coating. Import range: Confidential.

P 88–2583

Manufacturer. Baker Performance Chemicals Inc.
Chemical. (G) Alkylester of -olefin/ malic anhydride copolymer.
Use/Production. (S) Pour paint depressant. Prod. range: Confidential.

P 88–2584

Manufacturer. Baker Performance Chemical Inc.
Chemical. (G) Alkyldiester of -olefin/ malic anhydride copolymer.
Use/Production. (S) Pour paint depressant. Prod. range: Confidential.

P 88–2585

Manufacturer. Hoechst Celanese Corp.
Chemical. (S) 4,4'-{2,2,2-trifluoro-1-triflouromethyl) ethylidene}-bis- {2-nitrophenol}.
Use/Production. (S) Intermediate. Prod. range: Confidential.

P 88–99–2586

Manufacturer. Confidential.
Chemical. (G) Aliphatic polymeric polyester.
Use/Production. (S) Plasticizer. Prod. range: Confidential.

P 88–2587

Manufacturer. Confidential.
Chemical. (G) Cyanoguanidine amine polymer acid salt.
Use/Production. (S) Textile dye-fixing agent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3,310 mg/kg species(Rat). Acute dermal toxicity: LD50 1,060 mg/kg species(Rabbit).

P 88–2588

Manufacturer. Confidential.
Chemical. (G) Polyacrylic wood.
Use/Production. (S) Marine construction applications. Prod. range: 50,000–150,000 kg/yr.

P 88–2589

Manufacturer. Confidential.
Chemical. (G) Substituted amine carbon dioxide product.
Use/Production. (S) Frothing agent. Prod. range: 50–1,000 kg/yr.

P 88–2590

Manufacturer. Confidential.
Chemical. (G) Modified acrylate pentapolymer.
Use/Production. (G) Component. Prod. range: Confidential.

P 88–2591

Manufacturer. Confidential.
Chemical. (G) Amine salt of a carboxyl terminated polyester urethane polymer.
Use/Production. (S) Fabric finish/fabric coating. Prod. range: 100,000–500,000 kg/yr.

P 88–2592

Importer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Import. (G) Open, nondispersive use. Import range: 100,000–500,000 kg/yr.

P 88–2593

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (G) Paint component. Prod. range: Confidential.

P 88–2594

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (G) Paint component. Prod. range: Confidential.

P 88–2595

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (G) Paint component. Prod. range: Confidential.

P 88–2596

Manufacturer. Confidential.
Chemical. (G) Acrylic resin.
Use/Production. (G) Paint compaint. Prod. range: Confidential.

P 88–2597

Manufacturer. Confidential.
Chemical. (G) Substituted beta-naphthol compound.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2598

Manufacturer. Confidential.
Chemical. (G) Disubstituted dimethoxybenzidine.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2599

Manufacturer. Confidential.
Chemical. (G) Salt of substituted naphthol compound.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2600

Manufacturer. Confidential.
Chemical. (G) Dialkyl dimethyl ammonium salt of substituted arylazo.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2601

Manufacturer. Confidential.
Chemical. (G) Dialkyldimethyl salt of substituted arylazo butanamide.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–2602

Importer. Sherex Chemical Company, Inc.
Chemical. (S) Diglycide ether of polypropylene glycol.
Use/Import. (S) Reactive diluent for epoxy resins. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50>4,000 mg/kg species (Rat). Eye irritation: strong species (Rabbit). Skin irritation: moderate species (Rabbit). Mutagenicity: positive. Skin sensitization: positive species (Guinea pig).

P 88–2603

Manufacturer. Confidential.
Chemical. (G) Salt of sulfonated unsaturated polyester resin.
Use/Production. (S) Fiberglass preform binder resin. Prod. range: 25,000–41,600 kg/yr.

P 88–2604

Manufacturer. Hoechst Celanese Corp.
Chemical. (S) 4,4'-(2,2,2-trifluoro-1-(trifluoromethyl)ethylidene)-bis-benzoyl chloride.
Use/Production. (S) Intermediate. Prod. range: Confidential.

P 88–2605

Manufacturer. Hoechst Celanese Corporation.
Chemical. (S) 4,4'-(2,2,2-trifluoro-1-(trifluoromethyl)ethylidene)-bis-(2-aminophenol).
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Mutagenicity: negative.

P 88–2606

Manufacturer. Hoechst Celanese Corporation.
Chemical. (S) 2,2-bis(3-amino-4-hydroxyphenyl)-hexafluoropropane/1,3-benzene discarboxylic acid-2,2-bis-(4-carboxyphenyl)hexafluoropane copolyamide.
Use/Production. (G) Resin for coating application. Prod. range: Confidential.

P 88–2607

Importer. Quantum Chemical Corporation.
Chemical. (G) Sulphurized fatty acid ester.
Use/Import. (G) Lubricants. Import range: 52,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50>5 g/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).
Manufacturer. Confidential.

P 88–2608

Chemical. (S) Benzoic acid 2-((2-Methyl-3-(4-methoxyphenyl)propylidene)amino)-, methyl ester.
Use/Production. (S) Component of fragrance compound. Prod. range: 1,000–2,000 kg/yr.

P 88–2609

Manufacturer. Fritzsche Dodge & Olcott.
Chemical. (S) Benzoic acid 2-((2-Methyl-3-(3,4-methylenedioxyphenyl)propylidene)amino
Use/Production. (S) Component of fragrance compounds. Prod. range: 1,000–2,000 kg/yr.

P 88–2610

Manufacturer. Fritzsche Dodge & Olcott.
Chemical. (S) Butylbenzene; 4-Phenyl-2-butanone; 4-cyclohexyl-butanol-2.
Use/Production. (S) Component of fragrance compounds. Prod. range: 1,000–3,000 kg/yr.

P 88–2611

Manufacturer. Confidential.
Chemical. (G) Reaction products of sodium tetraborate and postassium hydroxide.
Use/Production. (S) Buffer for corrosion inhibition. Prod. range: 7,300–10,900 kg/yr.

P 88–2612

Manufacturer. Confidential.

Chemical. (G) Modified acrylic polymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50>5 g/kg species (Rat). Acute dermal toxicity: LD50>5 g/kg species (Rabbit). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–2613

Manufacturer. Confidential.
Chemical. (G) Organic rare earth salt.
Use/Production. (G) Polymerization catalyst. Prod. range: Confidential.

P 88–2614

Manufacturer. Confidential.
Chemical. (G) Organic acid rare earth salt.
Use/Production. (G) Polymerization catalyst. Prod. range: Confidential.

P 88–2615

Manufacturer. Hi-Tek Plymers, Inc.
Chemical. (G) Polyether urethane.
Use/Production. (G) Dispersing agent. Prod. range: Confidential.

P 88–2616

Manufacturer. Confidential.
Chemical. (G) Satured polyester.
Use/Production. (S) Component in paint. Prod. range: 120,000–240,000 kg/yr.

P 88–2617

Manufacturer. Confidential.
Chemical. (S) 1(3H)-Isobenzofuranone, 3,3-bis(4-hydroxyphenyl)-,potassium salt.
Use/Production. (S) PH indicator/colorant. Prod. range: 54.54–81.8 kg/yr.

P 88–2618

Importer. Confidential.
Chemical. (G) Sulfonated amine.
Use/Import. (S) Chemical intermediate. Import range: Confidential.

P 88–2619

Manufacturer. Interez, Inc.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Intrermediate. Prod. range: 250,000 kg/yr.

P 88–2620

Manufacturer. Confidential.
Chemical. (S) Dimethyl glutarate, diethylentriamine, Ammonia, epichlorohydrin.
Use/Production. (S) Additive in mfgr. or paper products. Prod. range: Confidential.
Toxicity Data: Acute oral toxicity: LD50 .95 ml/kg species(Rat).

P 88–2621

Importer. Quantum Chemical Corp.
Chemical. (G) Fatty acid ester.
Use/Import. (S) Lubricants. Import range: 5,000 kg/yr.

P 88–2622

Importer. Quantum Chemical Corp.
Chemical. (G) Sulphurized fatty acid ester.
Use/Import. (G) Lubricants. Import range: 52,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50>5 g/kg species(Rat). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit).

P 88–2623

Importer. Quantum Chemical Corp.
Chemical. (G) Fatty acid ester.
Use/Import. (S) Lubricants. Import range: 218,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50>5 g/kg species(Rat). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit).

P 88–2624

Manufacturer. Confidential.
Chemical. (G) A polymer of a methacrylic acid, an acrylic acid ester and methac acid.
Use/Production. (G) Synthetic thickener. Prod. range: Confidential.

P 88–2625

Manufacturer. Confidential.
Chemical. (G) Polymer of a methacrylate ester, an acrylate ester, vinyl acids and other vinyl monomers.
Use/Production. (G) Polymer for floor polish. Prod. range: Confidential.

P 88–2626

Importer. Confidential.
Chemical. (G) Blocked urethane prepolymer of an aromatic diisocyanate, aliphatic polyols and an aliphatic blocking agent.
Use/Import. (G) Coatings to import leather like appearance. Import range: Confidential.

P 88–2627

Importer. Quantum Chemical Corp.
Chemical. (G) Fatty acid ester.
Use/Import. (S) Lubricants. Import range: 120/000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species(Rat). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit).

P 88–2628

Manufacturer. The Goodyear Tire&Rubber Company.
Chemical. (G) VFR–1027x & vfr–10273x.
Use/Production. (S) Containers and packaging. Prod. range: 11,000–275,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species(rat). Skin irritation: negligible species(Rabbit).

P 88–2629

Manufacturer. E.A. Abbott.
Chemical. (G) Chloroalkyldisiloxane.
Use/Production. (G) Intermediate. Prod. range: 250,000 ky/yr.

P 88–2630

Manufacturer. Confidential.
Chemical. (G) Polysulfide acrylate.
Use/Production. (S) Component of formulated polymer. Prod. range: 100,000–1,000,000 kg/yr.

P 88–2631

Manufacturer. Confidential.
Chemical. (G) Alkenes a, reaction products with 2,5-furandione and substituted alkyl amines.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species(Rat). Acute dermal toxicity: LD50 >2,000 mg/kg species(Rabbit). Eye irritation: none species(Rabbit). Skin irritation: moderate species(Rabbit).

P 88–2632

Manufacturer. Confidential.
Chemical. (G) Alken b reaction products with 2,5-furandion and substituted alkyl amines.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species(Rat). Acute dermal toxicity: LD50 >2,000 mg/kg species(Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: moderate species(Rabbit).

P 88–2633

Manufacturer. Confidential.
Chemical. (G) Alkenesc, reaction products with 2,5-furandione and substituted alkyl amines.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 <5,000 kg/yr species(Rat). Acute dermal toxicity LD50 >2,000 mg/kg species(Rabbit). Eye irritation: slight species(Rabbit). Skin irritation: moderate species(Rabbit).

P 88–2634

Chemical. (G) Humic acid, sodium salt, polymer with acrylic monomer.
Use/Production. (G) Fluid loss additive. Prod. range: Confidential.

P 88–2635

Manufacturer. Confidential.

Chemical. (G) Humic acid, sodium salt, polymer with acrylic monomer.
Use/Production. (G) Fluid loss additive. Prod. range: Confidential.

P 88–2636

Manufacturer. Confidential.
Chemical. (G) Humic acid, sodium salt, polymer with acrylic monomer.
Use/Production. (G) Fluid loss additive. Prod. range: Confidential.

P 88–2637

Manufacturer. Confidential.
Chemical. (G) Aliphatic dibasic acid glycol ester.
Use/Production. (G) Fuel and lubricant additive. Prod. range: Confidential.

P 88–2638

Manufacturer. Confidential.
Chemical. (G) Aliphatic acid dibasic glycol ester.
Use/Production. (G) Fuel and lubricant additive. Prod. range: Confidential.

P 88–2639

Manufacturer. Confidential.
Chemical. (G) Aliphatic acid dibasic glycol ester.
Use/Production. (G) Fuel and lubricant additive. Prod. range: Confidential.

P 88–2640

Manufacturer. Confidential.
Chemical. (G) Aliphatic dibasic acid dibasic glycol ester.
Use/Production. (G) Fuel and lubricant additive. Prod. range: Confidential.

P 88–2641

Manufacturer. Confidential.
Chemical. (G) Aliphatic dibasic acid dibasic glycol ester.
Use/Production. (G) Fuel and lubricant additive. Prod. range: Confidential.

P 88–2642

Manufacturer. T1Confidential.
Chemical. (G) Aliphatic dibasic acid dibasic glycol ester.
Use/Production. (G) Fuel and lubricant additive. Prod. range: Confidential.

P 88–2643

Manufacturer. Confidential.
Chemical. (G) Blocked isocyanate.
Use/Production. (G) Fuel and lubricant additive. Prod. range: Confidential.

P 88–2644

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Azo substituted aniline.
Use/Production. (S) Dyestuff. Prod. range: 2,300–7,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species(Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species(Rabbit). Static acute toxicity: LC50 67.9 ml/l time 96 species(zebra fish). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: negative. Skin sensitization: positive species(Guinea pig).

P 88–2645

Importer. Hoechst Celanese Corporation.
Chemical. (G) Azo substitute aniline.
Use/Import. (S) Dyestuff. Import range: 2,300–7,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species(Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species(Rabbit). Static acute toxicity: LC50 18.25 ml/l time species(zebra fish). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit). Mutagenicity: negative. Skin sensitization: positive species(Guinea pig).

P 89–1

Importer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Peroxy-initiated acrylate ester/ether nitrile polymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

P 89–2

Manufacturer. Koppers Co., Inc.
Chemical. (G) Unsaturated polyester.
Use/Production. (S) Reinforcement for glass. Prod. range: Confidential.

P 89–3

Manufacturer. Texaco Chemical Company.
Chemical. (S) 2-(2-(2-Hydroxyethoxy)ethoxy)ethylamine.
Use/Production. (G) Destructive use. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 3.66g/Kg species(Rat). Acute dermal toxicity: LD50 > 89/kg species (Rabbit). Eye irritation: strong species (Rabbit). Skin irritation: slight species (Rabbit). Skin sensitization: positive species(Guinea pig).

P 89–4

Manufacturer. Texac Chemical Company.
Chemical. (S) 2-(2-(2-Hydroxyethoxy)ethoxy)ethoxy)ethylamine.
Use/Production. (G) Destructive use. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 3.88g/kg species (Rat). Acute dermal toxicity: LD50 > 8g/kg species (Rabbit). Eye irritation: strong species (Rabbit). Skin irritation: slight species (Rabbit). Skin sensitization: positive species (Guinea pig).

P 89–5

Manufacturer. Confidential.
Chemical. (S) Isononanoic acid adipic acid polyester of glycerine.
Use/Production. (G) Printing ink vehicle. Prod. range: 22,000–30,000 kg/yr.

P 89–6

Manufacturer. Minnesota Mining Manufacturing Co. (3M).
Chemical. (G) Substituted ketazine.
Use/Production. (S) Photographic leuco dye. Prod. range: Confidential.

P 89–7

Manufacturer. Minnesota Mining Manufacturing Co.
Chemical. (G) Substitute phenone.
Use/Production. (S) Photographic dye intermediate. Prod. range: Confidential.

P 89–8

Manufacturer. Minnesota Mining Manufacturing Co.
Chemical. (G) Substituted alkyl aniline.
Use/Production. (S) Photographic dye intermediate. Prod. range: Confidential.

P 89–9

Manufacturer. Minnesota Mining Manufacturing Co.
Chemical. (G) Substituted dialkyl aniline.
Use/Production. (S) Photographic leuco dye. Prod. range: Confidential.

P 89–10

Manufacturer. Minnesota Mining Manufacturing Co.
Chemical. (G) Salt or substituted oxazine.
Use/Production. (S) Photographic dye intermediate. Prod. range: Confidential.

P 89–11

Manufacturer. Minnesota Mining Manufacturing Co.
Chemical. (G) Substituted oxazine.
Use/Production. (S) Photographic leuco dye. Prod. range: Confidential.

P 89–12

Manufacturer. Ashland Chemical Co.
Chemical. (G) Azo-initiated acrylic hydroxy/ester polymer.
Use/Production. (G) Open, nondispersive use, Prod. range: Confidential.

P 89–13

Manufacturer. Ashland Chemical Co.

Chemical. (G) Thermoplastic saturated polyester.
Use/Production. (G) Cured reinforced thermoset plastic composite. Prod. range: Confidential.

P 89–14

Manufacturer. Ashland Chemical Co.
Chemical. (G) Mixed glycol esters of terephthalic acid.
Use/Production. (G) Destructive use. Prod. range: Confidential

P 89–15

Manufacturer. Ashland Chemical Co.
Chemical. (G) Unsaturated polyester.
Use/Production. (G) Cured reinforced plastic composite. Prod. range: Confidential.

P 89–16

Manufacturer. Confidential.
Chemical. (G) 2,2-(substituted)bisoxazoline polymer with phenol and phenol and formaldehyde.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 89–17

Manufacturer. Confidential.
Chemical. (G) 2,2-(substituted)bisoxazoline polymer with phenol and formaldehyde.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 89–18

Manufacturer. Confidential.
Chemical. (G) Halogenated polyether prepolymer-isocyanate terminated.
Use/Production. (S) Resin component. Prod. range: 30,500–91,000 kg/yr.

P 89–19

Importer. Hoechst Celanese Corporation.
Chemical. (G) Oleifin identified.
Use/Import. (S) Petroleum distillate additive. Import range: 45,000–90,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 89–20

Manufacturer. Confidential.
Chemical. (S) Calcium trifluoromethanesulfonate.
Use/Production. (G) Catalyst. Prod range: Confidential.
Toxicity Data. Eye irritation: slight species (Rabbit). Skin irritation: strong species (Rabbit).

P 89–21

Manufacturer. Confidential
Chemical. (G) Chemical intermediate.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 2,679 mg/kg species (Rat). Acute dermal toxicity: LD50 2,000 mg/kg species (Rabbit). Skin irritation: slight species (Rabbit).

P 89–22

Manufacturer. Confidential.
Chemical. (G) Octylacrylamide/acrylates copolymer (CFRA designation).
Use/Production. (G) Photoresist film additive. Prod. range: Confidential.

P 89–23

Manufacturer. National Strarch and Chemical Corp.
Chemical. (G) Carboxylated vinyl acrylic copolymer.
Use/Production. (G) Pressure sensitive adhesive. Prod. range: Confidential.

P 89–24

Manufacturer. Quantum Chemical Corp.
Chemical. (G) Alkyl ester.
Use/Production. (S) Chemical intermediate. Prod. range: 100–25,000 kg-yr.

P 89–25

Manufacturer. Confidential.
Chemical. (G) Aryl bisphosphite.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 16 g/kg species (Rat). Acute dermal toxicity: LD50 7.1 g/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 89–26

Importer. Confidential.
Chemical. (G) Styrenic monomer
Use/Import. (G) Destructive use Import range: Confidential.

P 89–27

Importer. Confidential.
Chemical. (G) Modified alkyl methacrylate.
Use/Import. (G) Destructive use. Import range: Confidential.

P 89–28

Manufacturer. Confidential.
Chemical. (G) Styrenic-acrylic copolymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 89–29

Importer. Marubeni America Corporation.
Chemical. (S) E-cuprolactone modified 2-hydroxyethyl acrylate monomer.
Use/Import. (S) UV curing resin for plastic paint. Import range: 20,000–100,000 kg/yr.

P 89–30

Importer. Marubeni America Corporation.
Chemical. (S) 3,4-Epoxy cyclohexyl methyl methacrylate.
Use/Import. (S) Powder coating paint. Import range: 500–10,000 kg/yr.

P 89–31

Importer. Marubeni America Corporation.
Chemical. (S) 3,4-Epoxy cyclohexyl methyl acrylate.
Use/Import. (S) Powder coating paint. Import range: 500–10,000 kg/yr.

P 89–32

Importer. Marubeni America Corporation.
Chemical. (S) E-cuprolactone modified 2-hydroxyethyl methacrylate monomer.
Use/Import. (S) UV curing for plastic paint. Import range: 20,000–100,000 kg/yr.

P 89–33

Importer. Confidential.
Chemical. (S).
Use/PImport. (G) Component. Import range: Confidential.

P 89–34

Importer. Akzo Chemicals, Inc.
Chemical. (S) Trans-1,4-cyclohexanediisocyanate: polytetramethylene glycol.
Use/Import. (S) Prepolymers in the production of cast elestomers. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 < 5.000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 89–35

Importer. Akzo Chemicals, Inc.
Chemical. (S) Trans-1,4-cyclohexanediisocyanate; polytetramethylene glycol.
Use/Import. (S) Prepolymers in the production of cast electomers. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: moderate species(Rabbit). Skin irritation: slight species(Rabbit).

P 89–36

Importer. Akzo Chemicals, Inc.

Chemical. (G) The polymer of trans-1,4-cyclohanediisocyanate and a diol.
Use/Import. (S) Prepolymers in the production of cast electomers. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species(Rat). Eye irritation: moderate species(Rabbit). Skin irritation: slight species(Rabbit).

P 89–37

Importer. Akzo Chemicals, Inc.
Chemical. (G) The polymer of trans-1,4-cyclohexandiisocyanate and a diol.
Use/Import. (S) Prepolymers in the production of cast electomers. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 89–38

Manufacturer. Pratt & Lambert.
Chemical. (G) Oxime capped aromatic polyester urethane.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 89–39

Manufacturer. Confidential.
Chemical. (G) Acrylic solution resin.
Use/Production. (S) Appliance coatings. Prod. range: Confidential.

P 89–40

Manufacturer. Confidential.
Chemical. (G) Acrylic solution resin.
Use/Production. (S) Coating for polypropylene. Prod. range: Confidential.

P 89–41

Manufacturer. Confidential.
Chemical. (G) Acrylic solution resin.
Use/Production. (S) Automotive finishes. Prod. range: Confidential.

P 89–42

Manufacturer. Confidential.
Chemical. (G) Acrylic solution resin.
Use/Production. (S) Pressure sensitive adhesives. Prod. range: Confidential.

P 89–43

Manufacturer. Confidential.
Chemical. (G) Acrylic solution resin.
Use/Production. (S) Appliance coatings. Prod. range: Confidential.

P 89–44

Manufacturer. Confidential.
Chemical. (G) Acrylic solution resin.
Use/Production. (S) Appliance coatings. Prod. range: Confidential.

P 89–45

Manufacturer. Confidential.
Chemical. (G) Acrylic solution resin.
Use/Production. (S) Automotive finishes. Prod. range: Confidential.

P 89–46

Manufacturer. Confidential.
Chemical. (G) Acrylic Resin.
Use/Production. (S) Exterior coatings for metal. Prod. range: Confidential.

P 89–47

Manufacturer. Confidential.
Chemical. (G) Acrylic solution resin.
Use/Production. (S) Can coatings. Prod. range: Confidential.

P 89–48

Manufacturer. Confidential.
Chemical. (G) Acrylic solution resin.
Use/Production. (S) Adhesive, lacquers inks. Prod. range: Confidential.

P 89–49

Importer. Basf Engineering Plastics.
Chemical. (G) Poly phenylene ether graft polymer.
Use/Import. (S) Plastic materials for the automative industry. Import range: Confidential.

P 89–50

Importer. Basf Engineering Plastics.
Chemical. (G) Poly phenylene ether graft polymer.
Use/Import. (S) Plastic materials for the automative industry. Import range: Confidential.

P 89–51

Importer. Marubeni America Corporation.
Chemical. (G) (Poly-(bisphenol-Alpha-2-hydroxy propyl ether)] poly-capralactone graft polymer.
Use/Import. (S) Epoxy resin for coating. Import range: Confidential.

P 89–52

Manufacturer. Confidential.
Chemical. (G) Bis([aryl] [diaryl] phosphoranediyl) ammonium chloride.
Use/Import. (S) Urethane foam Prod. range: Confidential.

P 89–53

Importer. Confidential.
Chemical. (G) Bis(aralky) (diaryl)phosphoranediyl chloride.
Use/Import. (S) Vulcanization accelerator. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 656 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rat). Inhalation toxicity: LC50 0.25 mg/l species (Rat). Eye irritation: strong species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative. Skin sensitization: positive species (Guinea pig).

P 89–54

Importer. Confidential.
Chemical. (G) Micronized grafted silica.
Use/Import. (G) Component. Import range: Confidential.

P 89–55

Importer. Marubeni America Corporation.
Chemical. (G) Polycarbonatediol.
Use/Import. (S) Thermoplastic elastomer. Import range: 3,000–20,000 kg/yr.

P 89–56

Importer. Marubeni America Corporation.
Chemical. (G) Polycarbonatediol.
Use/Import. (S) Thermoplastic elastomer. Import range: 3,000–20,000 kg/yr.

P 89–57

Manufacturer. Confidential.
Chemical. (G) Modified soya alkyd.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 89–58

Manufacturer. Confidential.
Chemical. (G) Ester-imide.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89–59

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Ethylene interpolymer.
Use/Production. (G) Molded parts. Prod. range: Cofidential.

P 89–60

Manufacturer. Confidential.
Chemical. (G) Isophthalate polyester.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 89–61

Importer. Nachem. Inc.
Chemical. (G) Sulfonated phenol-formaldehyde condensation product.
Use/Import. (S) Stain blocking agent. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > mg/kg species (Rat). Eye irrigation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 89–62

Importer. Ciba-Geigy Corporation.
Chemical. (G) Substituted azo triazine.
Use/Import. (G) Textile dye. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation : none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

Dated: November 2, 1988.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 88-25940 Filed 11-9-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

November 1, 1988.

The Federal Communications Commission has submitted the following information collection requirements to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501 et seq.).

Copies of the submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: 3060-0190.

Title: Section 73.3544, Application to obtain a modified station license.

Action: Extension.

Respondents: Businesses (including small businesses), and non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 238 responses; 238 hours; 1 hour each.

Needs and Uses: To make certain changes in a station authorization or facilities where prior authority is not required, a broadcast station licensee is required to file an informal application with the Commission to obtain a modified station license. The informal application is used by Commission staff to ensure changes are in accordance with FCC rules and to issue a modified station license.

OMB Number: 3060-0297

Title: Section 80.503, Cooperative use of facilities.

Action: Extension.

Respondents: Individuals, state or local governments, businesses (including small businesses), and non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 100 recordkeepers; 1,600 hours; 16 hours each.

Needs and Uses: This requirement is necessary to ensure that licensees who share private communications facilities operate within the specified scope of service on a non-profit basis, and do not function as common carriers providing ship-shore public correspondence service.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 88-26113 Filed 11-9-88; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

November 1, 1988.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of this submission may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4785. Copies of these comments should also be sent to the Commission. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0021.

Title: Civil Air Patrol Radio Station License (Application).

Form No.: FCC 480.

Action: Revision.

Respondents: Non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 12 Responses, 5 minutes each.

Needs and Uses: Filing is required for a new, renewal, or modified license. The data is used to evaluate the application, to determine station location, to provide information for enforcement and rulemaking proceedings, and to maintain a current inventory of licenses.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 88-26114 Filed 11-9-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearings

1. The Commission has before it the following groups of mutually exclusive applications for new FM stations:

I.

Applicant, city, and state	File No.	MM Docket No.
A. Abilene Radio Partnership; Abilene, TX.	BPH-871124MF	88-485
B. William E. Cordell, d/b/a Spectrum, Engineering Co.; Abilene, TX.	BPH-871124MH	
C. CVC Broadcasting Corp.; Abilene, TX.	BPH-871124MJ	
D. Robert Lester Griffis; Abilene, TX.	BPH-871124MO	

Issue Heading and Applicants

1. Air Hazard, A,D
2. Comparative, A,B,C,D
3. Ultimate, A,B,C,D

II.

Applicant, city, and state	File No.	MM Docket No.
A. Kennebunkport FM Limited Partnership; Kennebunkport, ME.	BPH-87110MF	88-483
B. Chester P. Coleman; Kennebunkport, ME.	BPH-871105MG	
C. Radio Kennebunkport, Inc.; Kennebunkport, ME.	BPH-871105MK	
D. Lindsay Collins and Stuart Richter, a General Partnership; Kennebunkport, ME.	BPH-871105ML	
E. Kennebunkport Media; Limited Partnership; Kennebunkport, ME.	BPH-871105MQ	
F. Maine Street Broadcasting Inc.; Kennebunkport, ME.	BPH-871105MO (Dismissed herein)	

Issue Heading and Applicants

1. Air Hazard, B,C
2. Comparative, A-E
3. Ultimate, A-E

III.

Applicant, city, and state	File No.	MM Docket No.
A. Rollings Communications, Inc.; Warrenton, MO.	BPH-880107ML	88-516
B. Kaspar Broadcasting Company of Missouri; Warrenton, MO.	BPH-88017MO	
C. James C. Magee; Warrenton, MO.	BPH-880107MP	

Issue Heading and Applicant(s)

1. Comparative, A, B, C
2. Ultimate, A, B, C

IV.

Applicant, city, and state	File No.	MM Docket No.
A. Pocahontas Broadcasting Company; Welch, WV.	BPH-871229MJ	88-517
B. McDowell County Broadcasting; Welch, WV.	BPH-880106ME	

Issue Heading and Applicants

1. Environmental Impact, A
2. Comparative, A, B
3. Ultimate, A, B

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in consolidated proceedings upon the issues listed above for each proceeding. 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 to signify whether the issue in question applies to that particular applicant.

3. Non-standardized issues in these proceedings, are set forth in an appendix to this notice. A copy of the complete HDO's in these proceedings are 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. 88-26115 Filed 11-9-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 88-1184]

Securities Offerings Disclosure

Date: November 4, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Board") has submitted for extension, without revision, an information collection request, "Securities Offerings Disclosure" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

This information is required by the Bank Board to determine if the securities-offering regulation standards reduce the risk of a fraudulent securities offering by an insured institution which could adversely affect the public safety and soundness of an insured institution, and the FSCLIC insurance fund. The burden per response will vary significantly depending upon the type of transaction.

DATE: Comments on the information collection request are welcome and should be received on or before November 25, 1988.

ADDRESS: Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Request for copies of the proposed information collection requests and supporting documentation are obtainable at the Board address given below: Director, Information Services Division, Office of Secretariat, Federal Home Loan Bank Board, 801 17th Street, NW., Washington, DC 20552. Phone: 202-653-2751.

FOR FURTHER INFORMATION CONTACT: Deborah F. Silberman, Office of General Counsel, 202-377-7013, Federal Home Loan Bank Board, 1700 G. Street, NW., Washington, DC 20552.

By The Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25998 Filed 11-9-88; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-750; FHLBB No. 1587]

Farmers' and Mechanic's Savings Bank, S.L.A.; Final Action Approval of Conversion Application

Date: November 4, 1988.

Notice is hereby given that on November 2, 1988, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Farmers' and Mechanics' Savings Bank, S.L.A., Burlington, New Jersey, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25995 Filed 11-9-88; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-749; FHLBB No. 4009]

Home Federal Savings and Loan Association; Final Action Approval of Conversion Application

Date: November 3, 1988.

Notice is hereby given that on October 25, 1988, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings and Loan Association, Washington, DC for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Atlanta, 1475 Peachtree Street, NE., Atlanta, Georgia 30309.

By the Federal Home Loan Bank Board.
John F. Ghizzoni
Assistant Secretary.
[FR Doc. 88-25996 Filed 11-9-88; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Proposed Change in the Method of Reporting the Results of Sanitation Inspections of International Cruise Vessels

AGENCY: Centers for Disease Control (CDC), Public Health Service, HHS.

ACTION: Request for public comment on the proposed change in the method of reporting the results of sanitation inspections of international cruise vessels.

SUMMARY: The Centers for Disease Control (CDC) proposes to change the method of reporting the results of sanitation inspections of international cruise vessels in the biweekly Summary of Sanitation Inspections of International Cruise Ships to include the numerical score achieved by vessels during the most recent sanitation inspection and the median of routine semi-annual sanitation inspection score achieved during the past 5 years.

DATE: Comments must be received on or before January 9, 1989.

ADDRESS: Comments may be mailed to Director, Center for Environmental Health and Injury Control, CDC, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Linda W. Anderson, Chief, Special Programs Group, Center for Environmental Health and Injury Control, CDC, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephone: FTS:236-4595; Commercial: (404) 488-4595.

SUPPLEMENTARY INFORMATION: All passenger cruise vessels with foreign itineraries arriving at ports under the control of the U.S. are subject to vessel sanitation inspections twice a year. All inspections are unannounced and rate vessels on the following items to determine if they meet CDC sanitation standards: (1) Water; (2) food preparation and handling; (3) potential contamination of food; and (4) general cleanliness, methods of food storage, and repair of food service equipment. If a vessel fails a semi-annual inspection, one or more followup inspections are scheduled. Scheduling of followup inspections is dependent on the itinerary of the cruise vessels, staff availability and other factors.

Current inspection results are provided to the public in the form of a Summary of Sanitation Inspections of International Cruise Vessels published biweekly. The biweekly summary shows the date of the last inspection and whether or not the vessel achieved a satisfactory rating.

The current reporting scheme has an important drawback. Sanitation inspections are intended to reflect the level of sanitation on board the vessel at the time of the inspection. The numerical score is more indicative of the sanitation on board the vessel at the time of the inspection than the broader satisfactory/unsatisfactory rating. For example, a vessel that just barely achieves a satisfactory rating with a score of 86 receives the same rating as a vessel that achieves a score of 100. Conversely, a vessel that achieves a score of 85 receives the same unsatisfactory rating as a vessel that achieves a score of 40. CDC has received suggestions that publishing the numerical scores instead of simply the satisfactory or unsatisfactory ratings would be fairer and more helpful to the public.

There is no evidence that a single inspection score accurately predicts the probability of an outbreak on a particular cruise. However, there is evidence to indicate an outbreak is less likely to occur on a vessel whose staff maintains a higher level of sanitation over a period of time. A conscientious attention to achieving a high level of sanitation could best be demonstrated by a succinct, easy-to-understand historical reporting of the results of the sanitation inspections. Results of a vessel's inspection scores over a 5-year period would provide the traveling public with more information than is now provided.

CDC is proposing to change the reporting system to include the following:

(1) The Median of the numerical scores the vessel achieved during routine semiannual inspections over the past 5 years; and

(2) The numerical score by the vessel achieved during the most recent routine sanitation inspection.

The median is the central value of a series of observations; in this instance the observations are the numerical scores achieved by a vessel during sanitation inspections. In this report, the median is a single measure of sanitation inspection scores over the previous 5 years. The median is the most accurate representation of a vessel's sanitation history because it is less affected by outlying or unusual scores than the average. For example, a vessel that achieved scores of 96, 96, 94, 96, and 60 would have an average score of 88 and a median of 96. Thus, the median score is more indicative of the vessel's past performance than the average score. The median of the scores for the previous 10 routine periodic sanitation inspections, which for most vessels, would cover the last 5 years, would be reported in the biweekly summary.

For vessels that have not had 10 routine periodic sanitation inspections in the past 5 years, the median of the scores for whatever number of routine periodic inspections that had been performed during the last 5 years would be used.

Comments are also invited on other options for reporting the results of the sanitation inspections; whether or not the reinspection scores should be included in the calculation of the median score; on listing the number of scores the median score is based upon; and whether a change in the vessel owner/management should be noted in the biweekly Summary.

Dated: November 3, 1988.
Robert L. Foster,
Acting Director, Office of Program Support, Centers for Disease Control.
[FR Doc. 88-25983 Filed 11-9-88; 8:45 am]
BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 77P-0403 et al.]

Approved Variances for Laser Light Shows; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for 19 organizations that manufacture and produce laser light shows, light show projectors, or both. the projectors provide a laser light display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

DATES: The effective dates and termination dates of the variances are listed in the table below under **"SUPPLEMENTARY INFORMATION."**

ADDRESS: The applications and all correspondence on the applications

have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sally Friedman, Center for Devices and Radiological Health (HFV-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4 of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted each of the 19 organizations listed in the table below a variance from the requirements of 21 CFR 1040.11(c) of the performance standards for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product, assembled and produced by the manufacturer, which is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of class II levels but not exceeding those reuqired to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical designs and by warnings in the user manuals and on the products. Therefore, on the effective dates specified in the table below, FDA approved the requested variances by a letter to each manufacturer from the Acting Deputy Director, CDRH.

So that each product may show evidence of the variance approved for the manufacturer of the product, each product shall bear on the certification label required by 21 CFR 1010.2(a) a variance number, which is the FDA docket number, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date termination date
77P-0403 (amendment)	Laser Productions, 7000 N.E. 4th Court, Miami, Florida 33138.	Laser Productions laser light show assembled and produced by Laser Productions incorporating the Models 2001 and Orion projectors and Laser Media Models LM and LMS projection systems.	July 14, 1988-May 6, 1990
79P-0346 (renewal)	Laservision Productions, Incorporated, 72-1 Shawnee Avenue, Yonkers, New York 10710.	Laservision Productions, Inc. Models L-174, H-174, and AO-90 laser projection systems and for laser light shows assembled and produced by the firm with any of these projectors. The projectors may contain Class III or IV argon, krypton, copper, vapor, or helium-neon laser systems.	Aug. 2, 1988-May 19, 1990.
79P-0462 (renewal)	Laser Systems Development Corporation, P.O. Box 639, 6960 Lake Street, Green Mountain Falls, Colorado 80819.	Laser Systems Development Corporation Class IIIb or Class IV laser projection systems, Model R-2 and the C-3 Model Series, and laser light shows assembled and produced by Laser Systems Development Corporation incorporating these projection systems. These projectors may contain HeNe, Ar, Kr, or Ar/Kr lasers.	Aug. 26, 1988-Aug. 20, 1990.
80P-0100 (renewal)	Laser Fantasy, Incorporated, 2793 152nd Avenue, N.E., Redmond, Washington 98052.	Laser Fantasy, Incorporated, Class IV "Rainbow" projectors and for the laser light shows manufactured, assembled, and produced by Laser Fantasy incorporating these projectors.	Aug. 31, 1988-June 6, 1990.
83V-0151 (renewal)	Precision Projection Systems, Incorporated, 19109 Benfield Avenue, Cerritos, California 90701.	Class IIIb or Class IV Precision Projection Systems, Incorporated laser light show projectors and laser light shows assembled and produced by Precision Projection Systems Incorporated incorporating these projectors or the Laser Images CS Series or Mark VI Series projectors.	Sept. 1, 1988-Sept. 1, 1990.
84V-0376 (renewal)	Shawnee Brittan Productions, 1500 United Founders Tower, Oklahoma City, Oklahoma 73112.	Shawnee Brittan Productions Laser Space Theater laser light shows incorporating the Laser Presentations Model LP-4 laser light show projector	Aug. 18, 1988-Dec. 19, 1990.
86V-0093 (renewal)	Walt Disney Productions, dba Walt Disney Imagineering (Disney World), P.O. Box 10,000, Lake Buena Vista, Florida 32830.	Walt Disney Productions, dba Walt Disney Imagineering, laser light show incorporating the Prescision Projection Model TL-32 laser projector system with Class IV argon and krypton ion lasers.	July 20, 1988-Sept. 10, 1992.
86V-0164 (renewal)	Le Masquerade, 125 Michael Drive, Syosset, New York 11791.	Le Masquerade laser light shows incorporating the Falk Special Effects, Incorporated Model B projector and Class IIIb argon lasers.	Aug. 3, 1988-May 1, 1990

Docket No.	Organization granted the variance	Demonstration laser product	Effective date termination date
86V-0167 (renewal)	Irvine Company, dba The Irvine Exhibit, Jamboree Center, 2 Park Plaza, Suite 110, Irvine, California 92714.	Irvine Exhibit laser light show produced by the Irvine Co. incorporating the Laser Media Chromaray D #08 projector.	Aug. 5, 1988–June 11, 1990.
86V-0187 (revenwal)	Museum of Arts and Sciences Planetarium, 1040 Museum Boulevard, Daytona Beach, Florida 32014.	Museum of Arts and Sciences Planetarium "Cosmic Concerts" laser light show incorporating the firm's AR/NE laser systems.	Aug. 18, 1988–June 2, 1990.
86V-0299 (renewal)	Busch Entertainment Corporation dba Busch Gardens, P.O. Box 9158, Tampa, Florida 33674.	Laser light shows produced and assembled by Busch Entertainment Corporation dba Busch Gardens (Tampa, Florida) incorporating a Science Faction Corporation Laser-Chaser II laser projection system with Inertial Scanner and a Coherent Innova 90-5 laser.	Aug. 5, 1988–Aug. 12, 1990.
88V-0143	Flying Eagle, 4082 Crete Lane, #A, Las Vegas, Nevada 89103.	Flying Eagle laser light show which incorporates the Laser Media Model LMS laser projection system.	Aug. 18, 1988–Feb. 18, 1989.
88V-0165	Laser Image Productions, 10423 Starview Court, Indianapolis, Indiana 46229.	Laser Image Productions' laser light shows incorporating the firm's Class IV argon and helium-neon Model LIP-88-1, laser projection system.	Aug. 25, 1988–Aug. 25, 1990.
88V-0230	Impunity, Incorporated, 157 Hudson Street, New York, New York 10013.	Impunity, Incorporated laser light show incorporating the Laser Media LMS projector	July 20, 1988–July 20, 1990.
88V-0246	Bennett-Ross, Incorporated, 9754 Hawthorn Glen Drive, Grosse Ile, Michigan 48138.	Bennett-Ross, Incorporated, Laser Graphics Model LP-1 laser projection system and laser shows assembled and produced by Bennett-Ross, Incorporated.	Aug. 5, 1988–Aug. 5, 1990.
88V-0259	Twilight Theatrical Lighting, 538 Clifton Avenue, Clifton, New Jersey 07011.	Twilight Theatrical Lighting laser light show incorporating the Laser Media LMS projector	Aug. 5, 1988–Aug. 5, 1990.
88V-0270	Southworth Planetarium, University of Southern Maine, 96 Falmouth Street, Portland, Maine 04103.	Southworth Planetarium laser light show incorporating the Laser Systems Development Corporation Model R-2a projector.	Aug. 5, 1988–Aug. 5, 1990.
88V-0283	Laser Look, Incorporated, 193 White Birch Road, Edison, New Jersey 08837.	Laser Look, Incorporated laser light shows and the incorporated laser projection system consisting of American Lasers Model 60-X and 68-B, ILT Model 5490, Spectra Physics Model 168 Class IV argon or krypton lasers in a Technological Artisans Model TA-1 laser projector.	Aug. 5, 1988–Aug. 5, 1990.
88V-0293	Maryland Academy of Sciences, Maryland Science Center, 601 Light Street, Baltimore, Maryland 21230.	Maryland Academy of Sciences—Maryland Science Center laser light shows incorporating the Image Engineering Corporations Model 355ACB laser projection system.	Sept. 1, 1988–Sept. 1, 1990.

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: October 26, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88-25989 Filed 11-9-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 88M-0302]

CIBA Vision Corp.; Premarket Approval of In A Wink® (Lensept®) Cleaning Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Ciba Vision Corp., Atlanta, GA, for premarket approval under the Medical Device Amendments of 1976, of the In A Wink® (Lensept®) Cleaning Solution. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 11, 1988, of the approval of the application.

DATE: Petitons for administrative review by December 12, 1988.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On January 29, 1987, Ciba Vision Corp., Atlanta, GA 30348, submitted to CDRH an application for premarket approval of the In A Wink® (Lensept®) Cleaning Solution indicated for use to clean daily and extended wear soft (hydrophilic) contact lenses.

On April 22, 1988, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 11, 1988, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of the In a Wink® (Lensept®) Cleaning Solution states that the solution is indicated for use to clean daily and extended wear soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of approval of a new solution for use with an approved soft contact lens, each contact lens manufacturer or PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 12, 1988, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 26, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88-25990 Filed 11-9-88; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting:

Detroit District, chaired by Louis F. Schneider, Acting District Director. The topics to be discussed are standardizing absorbency testng and labeling for tampons and updates on new drug testing procedures.

DATE: Tuesday, November 15, 1988, 2 p.m. to 3:30 p.m.

ADDRESS: Cooper Hall, Rm. 187, Ball State University, Muncie, IN 47309.

FOR FURTHER INFORMATION CONTACT: L.M. Goossens, Consumer Affairs Officer, Food and Drug Administration, 575 North Pennsylvania St., Rm. 693, Indianapolis, IN 46204, 317-269-6500.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 3, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-25986 Filed 11-7-88; 11:16 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing To Reconsider Disapproval of a Portion of an Arkansas State Plan Amendment

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

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 6, 1988, in Dallas, Texas to reconsider our decision to disapprove a portion of Arkansas State Plan Amendment 88–5.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk November 25, 1988.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 966–4471.

SUPPLEMENTARY INFORMATION:

This notice announces an administrative hearing to reconsider our decision to disapprove a portion of Arkansas State Plan Amendment 88–5 (SPA 88–5).

Section 1116 of the Social Security Act and 42 CFR Part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issues in this matter are whether use of an unmodified Average Wholesale Price (AWP) constitutes the agency's "best estimate" of current prices as required by 42 CFR 447.301 and, therefore, whether payments resulting from the use of the unmodified AWP are consistent with efficiency, economy, and quality of care as required by section 1902(a)(30) of the Social Security Act.

Arkansas SPA 88–5 in part implements the drug reimbursement regulations published July 31, 1987. The State's plan amendment indicates that the State will use the AWP for the purpose of establishing the estimated acquisition cost (EAC) levels.

The current rules and the former Maximum Allowable Cost (MAC) regulations require the State agencies to establish EAC levels at "the agency's best estimate of the price generally and currently paid by providers for a drug marketed or sold by a particular manufacturer or labeler in the package size of the drug most frequently purchased by providers." This is necessary because, in general, the State payments for drugs may not exceed, in the aggregate, payment levels derived by applying the lower of: The cost of the drug plus a reasonable dispensing fee or the provider's usual and customary charge to the general public. HCFA believes that use of the AWP without modification does not comport with the definition of "estimated acquisition cost" in 42 CFR 447.301 because of a preponderance of evidence which demonstrates that the AWP overstates the price that providers actually pay for drug products. Thus, use of an unmodified AWP cannot constitute an agency's "best estimate" of current price. It also does not comport with section 1902(a)(30) of the Act requiring the State plan to assure that payments are consistent with efficiency, economy, and quality of care.

The notice to Arkansas announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

Mr. Kenny Whitlock, *Deputy Director, Division of Economic and Medical Services, Arkansas Department of Human Services, Post Office Box 1437, Little Rock, Arkansas 72203–1437 Q02*

Dear Mr. Whitlock:

I am advising you that your request for reconsideration of the decision to disapprove a portion of Arkansas State plan amendment 88–5(SPA 88–5) was received on October 6, 1988.

Arkansas SPA 88–5 implements the drug reimbursement regulations published on July 31, 1987. The State's plan amendment indicates, in part, that the State will use the average wholesale price (AWP) for the purpose of establishing the estimated acquisition cost (EAC) levels.

The issues in this matter are whether use of an unmodified AWP constitutes the agency's "best estimate" of current prices as required by 42 CFR 447.301 and, therefore, whether payments resulting from the use of the unmodified AWP are consistent with efficiency, economy, and quality of care as required by section 1902(a)(30) of the Social Security Act.

I am scheduling a hearing on your request to be held on December 6, 1988, at 10:00 a.m. in Room 1005, 1200 Main Tower, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the prcedures prescribed in 42 CFR Part 430.

I am designating Mr. Albert Miller as the president officer. If these arrangements present any problems please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 966–4471.

Sincerely,

William L. Roper,

Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: November 4, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 88–26001 Filed 11–9–88; 8:45 am]

BILLING CODE 4120–03–M

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privcacy Act of 1974, we are proposing to establish a new system of records, the "PRO Data Information System (PDMS)," HHS/HCFA/HSQB 09–70–1512. We have provided background information about the system in the "Supplementary Information" section below. Although the Privacy Act requires only that the routine uses portion of the system be published for comment, HCFA invites comments on all portions of this notice.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on November 7, 1988, pursuant to paragraph 4b(3) of Appendix I to EOMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985. The new system of records, including routine uses, will become effective January 9, 1989, unless HCFA receives comments which would necessitate changes to the system.

ADDRESS: The public should address comments to Mr. Richard A. DeMeo,

Privacy Act Officer, Office of Budget and Administration, Health Care Financing Administration, Room G–A–1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland, 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT:

Ms. Tina Donahue, Office of Peer Review, Health Standards and Quality Bureau, Health Care Financing Administration, 2–D–2 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone: (301) 966–7207, or

Mr. Steven Finlayson, Office of Peer Review, Health Standards and Quality Bureau, Health Care Financing Administration, 2–D–2 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone: (301) 966–6897.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, notice is hereby given that the Health Care Financing Administration (HCFA) proposes to initiate PDMS to collect, track, monitor, and analyze the medical review data submitted by PROs regarding utilization and quality of care rendered to Medicare beneficiaries throughout the country. A PRO is a review organization which has executed a contract with HCFA to assure the quality of care provided to Medicare beneficiaries.

PDMS is one of several approaches HCFA will utilize to promote the effective administration and operation, and to maintain the integrity of the PRO program. The primary function of PDMS will be to collect, track, monitor, and analyze data regarding the medical review activities performed by PROs. In addition, PDMS will serve a valuable program evaluation function. The data accumulated in PDMS will be aggregated and used to generate reports documenting on a national, regional, or State level the scope, volume, and results of PRO required activities on behalf of Medicare beneficiaries. The Office of Peer Review within the Health Standards and Quality Bureau (HSQB), the component of HCFA responsible for administering the PRO program, will use these reports to conduct various analyses of data dn to analyze PRO performance on a national level while each HCFA RO will address PRO-specific performance. If a particular analysis reveals a significant deficiency, HCFA will pursue further investigation and/or corrective action that may be appropriate. In this manner, PDMS will be integrated into and will complement other monitoring and oversight activities of the Department, HCFA, and HSQB, thereby better enabling them to ensure that Medicare beneficiaries receive quality medical care.

The PDMS system is established under the authority of Section 1886(a)(1)(F) and (d) of the Social Security Act which requires hospitals participating in the Medicare program to have an agreement with a PRO for the latter to review various aspects of the hospital's activities; Part B of the Social Security Act, which established the Utilization and Quality Control Peer Review Organization (PRO) program; Section 1862(g) of the Social Security Act, which requires the Secretary to enter into contracts with PROs to assist him in making certain types of determinations in the Medicare program and section 1874(a) and (b) of the Social Security Act, which authorize the Secretary to administer the Medicare program through contracts with others, including contracts for procuring data as may be necessary in carrying out his functions under the Medicare statute. The system is subject to the regulations at 45 CFR Part 5b, setting forth the conditions under which Medicare information shall be made available to the public and the Freedom of Information Act rules that apply to such disclosures of information. The Privacy Act permits us to disclose information without the consent of the individual for "routine uses"—that is, for purposes that are compatible with the purpose for which we collect the information. The proposed routine uses in the system meet the compatibility requirement of the Act since they are consistent with the propose of the system to monitor and analyze contractor performance in the review of the quality of care provided to Medicare beneficiaries. Release of beneficiary-specific information will require authorization and will be determined on an individual case-by-case basis.

We anticipate that disclosure under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: November 4, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

09–70–1512

SYSTEM NAME:

Pro Data Management System (PDMS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration, Health Standards and Quality Bureau, Office of Peer Review, Division of Program Operations, 2nd Floor, Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Health Care Financing Administration, Regional Offices. See Appendix A

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A record will be generated for each Medicare beneficiary case reviewd by a PRO.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *PRO ID*

A unique identifier assigned to the PRO for identification and reporting purposes.

2. *Record Type*

Identifies the type of record being submitted (e.g., new, replacement or cancelled record).

3. *Provider ID*

A coded number of a Medicare provider used to group review data.

4. *Health Insurance Claim (HIC) Number*

The Medicare beneficiary's unique Medicare Health Insurance Claim Number.

5. *Admission/Service Date*

If record is an inpatient admission, the date of admission to the facility or if outpatient, date of service provided.

6. *Discharge Date*

If record is an inpatient admission, the date of discharge from the facility.

7. *Basis for Selection*

The original category of required review from which the case was selected.

8. *Review Selection and Completion Dates*

Date selected and date review completed.

9. *Completed Review Results*

—Admissions review data
—DRG validation data
—Generic screen data (quality of care)
—Coverage review data
—Discharge review
—Reconsideration and appeal data
—PRO initiative adjustment data

—Review of hospital issued notices of non-coverage

10. *Review Type*

Indicates whether the review was performed on a pre-discharge, prepayment or retrospective basis.

AUTHORITY FOR MAINTENCE OF THE SYSTEM:

This system is established under the authority of Section 1866(a)(1)(F) and (d) of the Social Security Act, which requires hospitals participating in the Medicare program to have an agreement with a PRO for the latter to review various aspects of the hospital's activities; Part B of the Social Security Act, which established the Utilization and Quality Control Peer Review Organization (PRO) program; Section 1862(g) of the Social Security Act, which requires the Secretary to enter into contracts with PROs to assist him in making certain types of determinations in the Medicare program and Section 1874(a) and (b) of the Social Security Act, which authorize the Secretary to administer the Medicare program through contracts with others, including contracts for procuring data as may be necessary in carrying out his functions under the Medicare statute and regulations at 45 CFR Part 5b.

PURPOSE OF THE SYSTEM:

This system will be used to collect data on the selection and subsequent medical review of required areas of review in the acute hospital setting, specialty hospitals and exempt units, swing beds, hospital outpatient areas and ambulatory surgical centers (ASC). The system will allow for PRO generation and submission to HCFA of a unique record with all applicable review information relevant to contractor performance and data analysis. The HIC number is utilized because it represents the only unique constant identifier available to allow for identification and tracking of a particular record. The HIC number will also eliminate the probability of double counting records when determining the number of reviews performed for reimbursement purposes and identifying erroneous record submissions. Additionally, this system will allow for project officer (PRO) and SuperPRO selection of samples for re-review to validate the accuracy of contractor performance. (SuperPRO is an organization under contract with HCFA to review the quality of PRO medical review decisions on a sample basis.)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosures may be made:

1. To a congressional office in response to an inquiry from that office at the request of the subject individual.

2. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

(a) HHS or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof;

where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and that the use of such records by the Department of Justice, the tribunal, or the party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

4. To a third party where:

(a) HCFA needs information from the third party to verify information relating to program integrity, quality of care, and evaluation and measurement of system activities;

(b) The party to whom disclosure is to be made has, or is reasonably expected to have such information, and disclosure is needed in order to obtain the information; and

(c) HCFA determines that the purpose of disclosure is compatible with the purposes for which the records were collected.

5. To a Peer Review Organization, SuperPRO, or an entity under contract to HCFA or the Department acting in a manner consistent with maintaining the integrity of the Medicare program if HCFA determines that disclosure of beneficiary-specific information is necessary or relevant to an official investigation or litigation regarding a specific case, and if HCFA determines:

(a) That the use or disclosure of information does not violate legal limitations under which the record was provided, collected, or obtained; and

(b) That the purpose for which disclosure is to be made:

(1) Is compatible with the purposes for which the records were collected;

(2) Cannot be reasonably accomplished unless the record is provided in individual identifiable form; and

(3) Is of sufficient importance to warrant any effect on the privacy of the individual that disclosure of the record might bring; and

(c) That adequate safeguards have been instituted so as to protect the confidentiality of the data and prevent unauthorized access to it; and

(d) That the appropriate procedures, format, and media will be used for the data disclosure process.

POLICIES AND PRACTICES FOR STRONG, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained at the system location site in magnetic media (e.g., magnetic tape and computer discs).

RETRIEVABILITY:

The data in this system are retrieved by PRO ID and HIC number.

SAFEGUARDS:

Safeguards for automated records have been established in accordance with the Department of HHS' Information Resources Management Manual, "Part 6, Automated Information Systems Security." This includes maintaining the records in a secure enclosure.

Access to specific records is limited to those who have a need for them in the performance of their official duties.

RETENTION AND DISPOSAL:

Records are maintained on-line in the system from the date of submission to approximately three years (length of contract).

SYSTEM MANAGER AND ADDRESS:

Director, Office of Peer Review, Health Care Financing Administration, 2–D–2 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the system manager at the address indicated above or to the appropriate

regional office (see Appendix A), and specify Health Insurance Number.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should reasonably specify the information in the records being sought. You may also request an accounting of disclosures that have been made of your records, if any. (These procedures are in accordance with Departmental Regulations (45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Contact the system manager named above and reasonably identify the record and specify the information to be contested, and state the corrective action sought and your reasons for requesting the correction, along with information to show how the record is inaccurate, incomplete, untimely, irrelevant, or otherwise in need of correction. (These procedures are in accordance with Departmental Regulations 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

These records will be generated by the PRO from data received from the servicing fiscal intermediary (FI) or carrier responsible for the processing of Medicare hospital bills and data generated by the PRO itself as a direct result of medical review performed. Other sources would include Medicare beneficiaries, congressional office, HCFA, Medicare providers, Medicare intermediary/carrier, Office of the Inspector General, etc. The magnetic tape record will only include information to be compiled in the data base (e.g., Peer Review Organizations identifier, HIC, admission/service and discharge dates, review selection and results).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A—Health Care Financing Administration Regional Offices

I Boston, Project Officer, Peer Review Organization, Room 1309, JFK Federal Building, Boston, Massachusetts 022032.
II New York, Project Officer, Peer Review Organization, Room 3804, 26 Federal Plaza, New York, New York 10278.
III Philadelphia, Project Officer, Peer Review Organization, 3535 Market Street, P.O. Box 7760, Philadelphia, Pennsylvania 19101.
IV Atlanta, Project Officer, Peer Review Organization, Suite 601, 101 Marietta Tower, Atlanta, Georgia 30323
V Chicago, Project Officer, Peer Review Organization, Suite A-835, 175 W. Jackson Boulevard, Chicago, Illinois 60604.
VI Dallas, Project Officer, Peer Review Organization, Room 2000, 1200 Main Tower Building, Dallas, Texas 75202.
VII Kansas City, Project Officer, Peer Review Organization, New Federal Office Building, Room 235, 601 East 12th Street, Kansas City, Missouri 64106.
VIII Denver, Project Officer, Peer Review Organization, Federal Building, Room 574, 1961 Stout Street, Denver, Colorado 80294.
IX San Francisco, Project Officer, Peer Review Organization, 14th Floor, 100 Van Ness Avenue, San Francisco, California 94102.
X Seattle, Project Officer, Peer Review Organization, Room 430A, 2901 Third Avenue, Seattle, Washington 98121.

[FR Doc. 88-25979 Filed 11-9-88; 8:45 am]
BILLING CODE 4120-03-M

National Institutes of Health

Recombinant DNA Advisory Committee Human Gene Therapy Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee Human Gene Therapy Subcommittee at the National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892, on December 9, 1988, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. The purpose of the meeting will be to review a human gene transfer protocol submitted by Drs. Steven A. Rosenberg, R. Michael Blaese, and W. French Anderson and to complete an information brochure on human gene therapy. This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information may be obtained from Ms. Rachel E. Levinson, Executive Secretary, Recombinant DNA Advisory Committee Human Gene Therapy Subcommittee, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room B1C34, Bethesda, Maryland 20892, telephone (301) 496-9838.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be inlcuded as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: November 3, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-26070 Filed 11-9-88; 8:45 am]
BILLING CODE 4140-01-M

National Cancer Institute; Meeting of the Frederick Cancer Research Facility Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Frederick Cancer Research Facility (FCRF) Advisory Committee, National Cancer Institute, November 21-22, 1988, Building 549, Executive Board Room, at the NCI Frederick Cancer Research Facility, Frederick, Maryland 21701-1013.

The meeting will be open to the public on November 21 from 8:30 a.m. to approximately 11 a.m. to discuss administrative matters, future meetings, budget, legislative update, and to hear from the Associate Director for FCRF on items of interest to NCI and the Committee, including progress made on development of AIDS vaccine. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 21 from approximately 11 a.m. to recess and on November 22 from 8:30 a.m. to adjournment for site visit of research being conducted by the Basic Research Program's Laboratory of Chemical and Physical Carcinogenesis. These discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contractor, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda,

Maryland 20892 (301, 496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Cedric W. Long, Executive Secretary, Frederick Cancer Research facility, Advisory Committee, National Cancer Intitute, Frederick Cancer Research Facility, Building 427, Frederick, Maryland 21701–1013 (301, 698–1108) will provide substantive program information upon request.

Dated: November 1, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–26064 Filed 11–9–88; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Applications and Prevention Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, on January 11–12, 1989, in Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on January 11 from 9:00 a.m. to recess and from 8:30 a.m. to adjournment on January 12 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide summary of the meeting and a roster of committee members upon request.

Dr. William R. Harlan, Director, Division of Epidemiology and Clinical Applications, Federal Building, Room 212, Bethesda, Maryland 20892, (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: November 3, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–26065 Filed 11–9–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting to the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases (NIAID), on December 12 and 13. The meeting will be held in the 11th floor solarium, Building 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public on December 12 from 8:30 a.m. to 9 a.m., to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting of the Board will be closed to the public on December 12 from 9 a.m. until recess, and on December 13 from 8:30 a.m. until adjournment for the discussion, and evaluation of individual contracts supporting the NIAID Intramural Research Program. The discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the contracts, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John I. Gallin, Executive Secretary, Board of Scientific Counselors, NIAID, National Institutes of Health, Building 10, Room 11C103, telephone (302–496–3006), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–301, National Institutes of Health)

Dated: November 1, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–26066 Filed 11–9–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Meeting of the Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Dental Research (NIDR), on December 7–9, 1988, in Conference Room 117, Building 30, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9:00 a.m. to recess on December 7 and from 8:30 a.m. to 12:15 p.m. on December 8. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1:30 p.m. to recess on December 8 and from 9:00 a.m. to adjournment on December 9 for the review, discussion, and evaluation of individual programs and projects conducted by the NIDR, including consideration of individual investigations, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Abner Notkins, Director of Intramural Research, NIDR, NIH, Building 30, Room 132, Bethesda, Maryland 20892 (telephone 301–496–1483) will provide a summary of the meeting, roster of committee members and substantive program information.

Dated: November 1, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–26067 Filed 11–9–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Meeting of Environmental Health Sciences Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on November 29, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina. This meeting will be open to the public on November 39 from 9 a.m. to approximately 10:30 a.m. for general discussion. Attendance by the pubic is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 29, from 10:30 a.m. to adjournment on November 29, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the

applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun or Carol Shreffler, Executive Secretaries, Environmental Health Sciences Review Committee, National institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 1,2233, Research Triangle Park, North Carolina 27709, (telephone 919–541–7826), will provide summaries of meeting and rosters of committee members.

(Catalog of Federal Domestic Assistance Program Nos. 12.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: November 1, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–27068 Filed 11–9–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Meeting of Board of Scientific Counselors, Division of Biometry and Risk Assessment

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DBRA, December 1–2, 1988, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina.

This meeting will be open to the public 9 a.m. to 12 noon on December 1, for the purpose of presenting an overview of the organization and conduct of research in the section on molecular toxicology and risk models in the Laboratory of Biochemical Risk Analysis. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6) of Title 5 U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 1 from approximately 1 p.m. to adjournment on December 2, for the evaluation of the programs of the section on molecular toxicology and risk models in the Laboratory of Biochemical Risk Analysis, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. David Hoel, Director, Division of Biometry and Risk Assessment, NIEHS, Research Triangle Park, NC 27709, telephone (919) 541–3441, FTS 629–3441, will furnish summaries of the meeting, rosters of committee members and substantive program information.

Dated: November 1, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–26069 Filed 11–9–88; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Center For Health Services Research And Health Care Technology Assessment; Assessment of Medical Technology Extracorporeal Shock Wave Lithotripsy (ESWL) For the Treatment of Gallstones

The Public Health Service (PHS), through the Office of Health Technology Assessement (OHTA), announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness and use (indications) of extracorporeal shock wave lithotripsy (ESWL) for the treatment of gallstones. ESWL is a noninvasive technique of disintegranting calculi using electrohydraulic shock wave. In the past this technique has been used in the treatment of kideny stone. Recently it has been adapted to the treatment of selected patients with gallstones who may also receive other adjunctive therapeutic modalities to enhance removal of stone fragments after the stones are shattered or pulverized. This assessment seeks to answer the following questions: (1) Is ESWL accepted as a safe and clinically effective method for treating gallstones? (2) what are the clinical indications in patients with gallstones for which ESWL is deemed appropriate? (3) are there specific subgroups of patients with gallstones who are most likely to benefit from biliary ESWL? (4) are there specific subgroups of patients who are not likely to benefit from this therapeutic approach? (5) can patient selection criteria be developed to specify which types of patients would benefit from this type of treatment? (6) are there any disadvantages or risks associated with this type of procedure? (7) are there adjunctive therapies such as stone dissolution therapy, therapeutic endoscopy (endoscopic sphincterotomy) or percutaneous cholecystostomy, that are considered necessary for successfuly carrying out these treatments and when are these indicated? and (8) what is known about the morbidity associated with the use of this technique?

The PHS assessment consists of a synthesis of information obtained from the literature and from appropraite organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concering the safety, clinical effectiveness, and appropriate uses of a technoloy. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. The information being sought is a review and assessment of past, current, and planned research realed to this technology, as well as a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on clinical acceptability and the effectiveness of this technology and extent of use are also being sought. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than January 31, 1989 or within 90 days from the date of publication of this notice.

Written Material should be sumitted to: Kesinee C. Nimit, M.D., Health Science Analyst, Office of Health Technology Assessment, 5600 Fishers Lane, Room 18A–27, Rockville, MD 20857, Tel (301) 443–4990.

Date: November 3, 1988.

Donald E. Goldstone,

Acting Director, National Center for Health Service Research, and Health Care Technology Assessment.

[FR Doc. 88–26004 Filed 11–9–00; 8:45 am]

BILLING CODE 4160–17–M

Centers For Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 53 FR 7403, March 8, 1988) is amended to reflect the following changes:

(1) The establishment of the division-level internal substructure for the Center for Chronic Disease Prevention and Health Promotion.

(2) The transfer of the Preventive Health and Health Services Block Grant

from the Office of the Director, Center for Prevention Services, to the Center for Chronic Disease Prevention and Health Promotion.

Section HC–B, Organization and Functions, is hereby amended as follows:

1. After the heading and statement for the *Center for Chronic Disease Prevention and Health Promotion (HCL),* insert the following:

Office of the Director (HCL1). (1) Managers, directs, coordinates, and evaluates the activities of the Center for Chronic Disease Prevention and Health Promotion (CCDPHP); (2) develops goals and objectives and provides leadership, policy formation, scientific oversight, and guidance in program planning and development; (3) coordinates assistance provided by CCDPHP to other CDC components, other Federal, State, and local government agencies, the private sector, and other nations; (4) provides and coordinates administrative support services for CCDPHP requirements, including guidance and coordination for grants, cooperative agreements, and other assistance mechanisms; (5) provides administrative support and coordinates technical consultation and assistance for the Preventive Health and Health Services Block Grant; (6) coordinates, manages, and conducts analyses of broad-based surveillance activities in support of programs carried out by various CCDPHP components; (7) coordinates the recruitment, assignment, technical supervision, and career development for staff, including field assignees, with emphasis on goals for affirmative action; (8) acoordinates all CCDPHP international activities; (9) provides technical information services to facilitate dissemination of significant information to CCDPHP staff, various Federal, State, and local health agencies, professional and voluntary organizations, and through them to selected target populations; and in carrying out the above functions, (10) collaborates, as appropriate, with other Centers/Institute/Officers of CDC, other PHS agencies, and other Federal agencies.

Office of Surveillance and Analysis (HCL11). (1) In coordination with other components of CCDPHP and State and local agencies, plans, develops, conducts, and maintains national- and state-based surveillance for chronic diseases and conditions, related risk factors, policies, preventive health practices and services for infants, children, adolescents, and adults; (2) in coordination with other components of CCDPHP, investigates, analyzes, interprets, and disseminates the results of surveillance investigations and studies on trends, patterns, associated behavioral and other risk factors and causes of chronic diseases and conditions; (3) supports, coordinates, facilitates and conducts analyses, interprets and disseminates the findings of the Behavioral Risk Factor Surveillance System and related surveillance activities; (4) plans and implements strategies and methods to routinely collect, analyze, interpret, and disseminate surveillance information on rates, trends, and patterns of chronic diseases and associated factors; (5) consults and collaborates with professional staff in other CCDPHP components to plan and implement strategies to collect, analyze, interpret, and disseminate surveillance information on trends, patterns, associated behavioral and other risk factors and causes of chronic diseases and conditions; (6) coordinates, develops, catalogs, manages, and facilitates access to surveillance data bases of broad interest and utility within CCDPHP and for other CDC programs; (7) serves as a principal liaison for surveillance activities with other CDC programs, especially NCHS, IRMO, and EPO; (8) provides overall coordination for surveillance systems and activities within CCDPHP; (9) provides technical assistance to Federal, State, and local health agencies, and national and international organizations to develop their capacity to plan and implement strategies and methods for collection, analysis, interpretation, and dissemination of information on rates, trends, and patterns of chronic diseases and conditions and behavioral and other related risk factors; (10) develops methods to analyze and display information to assist in evaluating trends, setting priorities, and developing investigative and control strategies.

Division of Adolescent and School Health (HCL2). (1) Administers a program of comprehensive school health education with emphasis on adolescent health issues; (2) identifies priority health risks among adolescent populations, including behaviors that result in elevated risk of the development of cardiovascular diseases and cancer, transmission of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS), or that result in mortality, morbidity, and disability either during adolescence or adulthood; (3) in coordination with the Office of Surveillance and Analysis and other CCDPHP components, develops and supports national, State, and local surveillance systems to monitor priority health risks among school and adolescent populations; (4) conducts epidemiologic studies to identify principal determinants of priority health risks among adolescent populations; (5) develops, evaluates, and disseminates interventions to reduce high-priority health risks among adolescent populations; (6) assists State and local agencies to implement and assess school- and community-based interventions to reduce high-priority health risks among adolescent populations that attend school and among adolescent populations that do not; (7) administers a program of cooperative agreements and grants to schools, colleges, and related educational organizations to promote and disseminate effective school health education about HIV/AIDS prevention; (8) assists the nation's schools and colleges in protecting and improving the health of students, faculty, and staff through comprehensive school health education, and related school health and social services; (9) assists other nations in reducing health risks among adolescent populations and in implementing and improving school health programs; (10) and in accomplishing the functions listed above, collaborates with other components of CDC, PHS, and DHHS, the U.S. Department of Education and other federal agencies; national professional, voluntary, and philanthropic organizations; international agencies, and other organizations as appropriate.

Division of Chronic Disease Control and Community Intervention (HCL3). (1) Plans, directs, and conducts a program to translate chronic disease preventive practices, behaviors, and policies into widespread public health practice through epidemiologic, behavioral, and laboratory investigations, and State and community demonstrations and interventions; (2) identifies problems, needs, and opportunities related to modifiable behavioral and other risk factors, and recommends priorities for health education, health promotion, and risk reduction activities; (3) in coordination with the Office of Surveillance and Analysis and other CCDPHP components, plans, develops, and maintains systems of chronic disease surveillance associated with specific epidemiologic investigations, demonstrations, and programs; (4) plans and conducts epidemiologic studies of selected chronic disease, key behavioral and other risk factors, such as physical activity, exercise, alcohol use, and effectiveness of intervention programs; (5) provides technical consultation and assistance and training to State and local health agencies and national,

international, and private organizations in chronic disease and health promotion activities, including state-of-the-art program development such as PATCH, health education, health promotion, intervention activities, service delivery, and program management; (6) serves as a resource for technical consultation and assistance and expertise in the epidemiology, prevention, and control of selected chronic diseases, both domestically and internationally; (7) coordinates Division activities with other CCDPHP components, other CDC organizations, and other PHS agencies as appropriate.

Division of Diabetes Translation (HCL4). (1) Plans, directs, and coordinates a program to reduce morbidity, mortality, disability, and costs associated with diabetes and its complications; (2) identifies, evaluates, and implements programs to prevent and control diabetes through the translation of state-of-the-art health care and self-care practices into widespread community practice; (3) in coordination with the Office of Surveillance and Analysis, conducts surveillance of diabetes, its complications, and the utilization of health care and prevention resources to monitor trends and evaluate program impact on morbidity, mortality, disability, and cost; (4) conducts epidemiologic studies and disseminates findings to identify and evaluate the feasibility and effectiveness of potential prevention and control strategies at the community level; (5) develops clinical and public health guidelines and strategies to form the basis for community interventions; (6) provides technical consultation and assistance to State and local health agencies to implement and evaluate cost effective interventions to reduce morbidity, mortality, and disability; (7) maintains liaison and collaborative relationships with official, private, voluntary agencies, educational institutions, or foreign countries and groups involved in diabetes-related activities; (8) provides technical assistance and consultation to other nations and to the World Health Organization (WHO) as a WHO Collaborating Center.

Division of Nutrition (HCL5). (1) Identifies and develops priorities for nutrition-related health problems of national and State significance; develops goals and objectives, and plans, implements, and evaluates appropriate activities that contribute to the reduction of preventable morbidity and mortality and promote enhancement of the quality of life as related to nutrition, nutritional problems, and related risk factors; (2) plans, directs, and conducts epidemiologic investigations, demonstration projects, and programs to better describe and resolve nutrition-related health problems and risk factors and other factors affecting growth and development, especially in high-risk populations; (3) plans and conducts applied investigations to develop or improve nutrition assessment methods and reference criteria for monitoring infant and child growth and determining adult nutrition status, especially among women during the prenatal and postpartum periods; (4) directs and coordinates nutrition status surveillance and survey activities, especially among high-risk, low income populations within the United States, including infants, children, and pregnant women; (5) provides technical and consultative services to State, local, and Federal agencies in the development and management of nutrition status monitoring systems and in the planning and implementation of appropriate intervention strategies to improve nutritional status; (6) collaborates with other divisions of CCDPHP in the nutritional components of their programs, as appropriate, and provides technical assistance and training to State, local, and Federal agencies in the planning and implementation of programs intended to promote optimal nutritional status and reduce nutrition-related risk factors associated with chronic disease; (7) provides technical assistance in the evaluation of surveillance of nutritional status, nutrition-related diseases, and nutrition-related relief efforts in developing countries in collaboration with international agencies such as the Agency for International Development (AID) and the World Health Organization (WHO); (8) designs and conducts epidemiologic and other investigations to clarify the relationship beween nutritional status and related preventable health problems in collaboration with the Department of State, AID, and other international agencies; (9) participates in the Department's Nutrition Policy Board and coordinates Division activities with other PHS agencies and the OASH, other Federal agencies, and appropriate nutrition-related organizations.

Division of Reproductive Health (HCL6). (1) Proposes appropriate goals and objectives, identifies problems and needs, and recommends priorities for reproductive health program activities that can contribute to the reduction of preventable morbidity and mortality due to selected, non-environmentally, non-occupationally related adverse reproductive outcomes; (2) conducts public health surveillance in coordination with the Office of Surveillance and Analysis, epidemiologic investigations, and evaluations of health problems and programs related to contraception, pregnancy, human reproduction, and infancy; (3) develops and implements intervention programs to prevent and/or resolve problems related to reproductive, infant, and maternal health, and selected adverse reproductive outcomes; (4) conducts evaluation of service programs and service delivery intended to improve the organization and delivery of reproductive health services, including certain family planning services; (5) confers, consults, collaborates with, and provides technical assistance and training to local, State, and other Federal agencies, and appropriate nongovernmental organizations on selected reproductive health problems and on programs to resolve these problems; (6) consults, collaborates with, and provides technical assistance to international governmental and nongovernmental organizations on bilateral and multilateral epidemiologic investigations and demonstration projects in reproductive health, including surveys and assessments, improvement of service delivery, and reproductive risk assessment; (7) serves as a primary Federal resource for technical assistance and expertise in family planning evaluation methodologies and reproductive health epidemiology; (8) serves as a World Health Organization (WHO) Collaborating Center in Perinatal Care and Health Service Research in maternal and child health, and as a WHO Collaborating Center for Research Training in Human Reproduction; (9) coordinates Division activities with other CCDPHP components, other CDC organizations, other PHS agencies, and the OASH, including the Deputy Assistant Secretary for Population Affairs, as appropriate.

Office on Smoking and Health (HCL7). (1) Administers a program to inform Americans about the dangers of tobacco use in order to reduce death and disability due to smoking and smokeless tobacco use; (2) promotes and stimulates research on the determinants and health effects of smoking and

smokeless tobacco use; (3) coordinates all PHS research and educational programs and other DHHS activities related to tobacco and health; (4) establishes and maintains liaison with other Federal agencies, private organizations, State and local governments, and international agencies on matters related to tobacco and health; (5) serves as a clearinghouse for the collection, organization, and dissemination of information on all aspects of tobacco and health; (6) develops materials on tobacco use in relation to health; (7) provides assistance for educational programs on smoking and health; (8) produces Congressionally mandated reports to Congress; (9) conducts surveys, and coordinates and conducts epidemiologic studies related to tobacco use and tobacco control; (10) provides staff support for a Congressionally mandated Federal advisory committee on smoking and health; (11) pursuant to Pub. L. 98–474 and 99–252, collects, maintains, and analyzes information provided by the tobacco industry on cigarette additives and smokeless tobacco additives and nicotine content; (12) serves as a World Health Organization (WHO) Collaborating Center on Smoking and Health; (13) serves as the lead DHHS organization for the Objectives for the Nation related to smoking and health; (14) provides staff support to the Surgeon General on activities related to smoking and health.

2. Within the *Center for Prevention Services (HCMR,* make the following changes:

a. After the heading *Office of the Director (HCM1),*delete item (5) and renumber items (6) and (7) as items (5) and (6) respectively.

b. After the heading and statement for the *Office of the Director (HCM),* delete in its entirety the heading and functional statement for the *Division of Diabetes Control (HCM6).*

3. Within the *Center for Environmental Health and Injury Control (HCN),* after the heading and statement for the *Division of Birth Defects and Developmental Disabilities (HCN5),* delete in its entirety the heading and functional statement for the *Division of Chronic Disease Control (HCN6).*

Effective Date: October 28, 1988.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 88–26002 Filed 11–9–88; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–010–09–4333–10]

Motor Vehicle Use Restrictions; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of designation of motor vehicle use on Carter Mountain, Park County, Wyoming.

SUMMARY: The proposed Carter Mountain ACEC area is hereby redesignated "limited to designated roads, trails, and seasons of use" for the next three years, effective as of November 15, 1988. This is in response to a request from the Wyoming Game and Fish Department as part of their effort to reduce the size of the migratory elk herd. It is consistent with the Cody RMP which calls for the proposed Carter Mountain ACEC area to limit motor vehicle use to season of use and designated roads and trails.

EFFECTIVE DATE: This designation becomes effective November 15, 1988 and will remain in effect until May 1, 1991 or until rescinded or modified by the authorized officer before that date. An environmental assessment describing the impact of this designation is available for inspection at the Worland District Office.

ADDRESS: Bureau of Land Management, 101 South 23rd Street, P.O. Box 119, Worland, Wyoming 82401.

FOR FURTHER INFORMATION CONTACT: Darrell C. Barnes, District Manager, Worland District, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401, (307) 347–9871.

SUPPLEMENTARY INFORMATION: In response to a Wyoming Game and Fish Department request, the Cody Resource Area held a public meeting on October 11, 1988, to discuss the concerns and issues involved in changing the motor vehicle designation for the Carter Mountain area. All motor vehicle use on public lands administered by the Bureau of Land Management in the proposed Carter Mountain ACEC is restricted to designated roads and trails from May 1 to November 14 and the area is closed to motor vehicle use fromm November 15 to April 30. This designation will be rescinded May 1, 1991; however, it may be rescinded prior to May 1, 1991, if it is determined by the authorized officer, through an annual assessment, that the designation is no longer necessary for its intended purpose. The Wyoming Game and Fish officials feel that motorized vehicle use, including snowmobiles, can disrupt the migration patterns of all wildlife; however, elk are particularly affected by such use. By restrictng motorized vehicle use the elk will migrate in the Carter Mountain area, thus allowing more elk to move into the lower reaches of their winter range and the harvest will increase. After the hunting season the area would remain closed until April 30 of each year to reduce the stress on the wintering elk herds. The "limited to designated roads, trails and seasons of use" designation applies to public lands in Park County located approximately 20 miles west of Meeteetse, Wyoming.

This designation affects all public lands above 3000 meters (9843 feet) in elevation in T. 49 N., R. 103 W., Sixth Principal Meridan, approximately 7,500 acres.

The limited use designation applies to all motorized vehicles, included but not limited to: Automobiles, trucks, four-wheel drive or low-tire-pressure vehicles, tracked or amphibious machines, ground-effect or air-cushion vehicles, recreation campers, motorcycles, snowmobiles and another means of transportation deriving motive power from any source other than muscle. Under the limitation, exceptions are made for (1) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, or any combat or combat support vehicle when used for national defense purposes, (2) any vehicle whose use is expressly authorized by the Bureau of Land Management under permit, lease, license or contract, and (3) any government vehicle on official business.

A map showing the new limited use area, and additional information about the designation are available for review at the Bureau of Land Management, Worland District Office, at the address listed previously.

November 4, 1988.

Hillary A. Oden,

State Director.

[FR Doc. 88–26011 Filed 11–9–88; 8:45 am]

BILLING CODE 4310–22–M

[U–59194]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

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 U–59194 for lands in San Juan County, Utah, was timely filed and required rentals and royalties accruing

from April 1, 1988, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre and 16-2/3 percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease U-59194 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 April 1, 1988, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Robert Lopez,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88-25982 Filed 11-9-88 8:45 am]

BILLING CODE 4310-DQ-M

[WY-920-08-4120-11; WYW114115]

Coal Leases; Exploration Licenses, etc.; Cheyenne, WY; Correction

AGENCY: Bureau of Land Management.

ACTION: Notice, correction.

SUMMARY: In the **Federal Register** of October 21, 1988, (53 FR 41422), the Bureau of Land Management published an invitation for coal exploration license for the Kerr-McGee Coal Corporation. There were errors in the land description. This document corrects these errors.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Wyoming State Office, Branch of Mining Law and Solid Minerals, P.O. Box 1828, Cheyenne, Wyoming 82003; 307-772-2569.

SUPPLEMENTARY INFORMATION: In FR 88-24370, appearing on page 41422 in the **Federal Register** of Friday, October 21, 1988, the following corection is made: Under the heading "SUMMARY," the land description is corrected to read:

"T. 44 N., R. 70 W., 6th P.M., WY,
Sec. 33: Lots 1 thru 16 inclusive;
Sec. 34: Lots 1 thru 16 inclusive;
Sec. 35: Lots 1 thru 15 inclusive.
Containing 1,910.17 acres."

Hillary A. Oden,

State Director.

[FR Doc. 88-26091 Filed 11-9-88; 8:45 am]

BILLING CODE 4310-22-M

[OR110-6310-11 OR910-GP9-20]

Medford District Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 99-463 that a meeting of the Bureau of Land Management, Medford District Advisory Council will be held December 2, 1988.

On December 2, the meeting will begin at 9:00 a.m., in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The agenda for the meeting will include:

An update of the district's planning for the 1990s, the outlook for public and private timber production capability in the next 20 years and an update in the district spotted owl program, including the injunction affecting virtually all old growth timber on the district.

Other items include the district's riparian program initiatives, volunteer program, the Bureau's Recreation 2000 initiative, the growing problem of chemical dumps on public lands, and election of officers.

Persons interested in making oral statements during the Council meeting, may do so following conclusion of the Council's other agenda items, or written statements may be submitted for the Council's consideration.

Anyone wishing to make an oral statement at the Council meeting must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by close of business December 1, 1988. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

David A. Jones,

District Manager.

October 31, 1988.

[FR Doc. 88-26122 Filed 11-9-88; 8:45 am]

BILLING CODE 4310-33-M

[WY-920-08-4111-15; W-79705-G]

Proposed Reinstatement of Terminated Oil and Gas Lease; Crook County, WY

November 4, 1988.

Pursuant to 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-79705-G for lands in Crook 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 $10.00 per acre, or fraction thereof, per year and not less than 16⅔ 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 sections 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-79705-G effective July 1, 1988, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

David A. Pomerinke,

Acting Chief, Leasing Section.

[FR Doc. 88-26092 Filed 11-9-88; 8:45 am]

BILLING CODE 4310-22-M

[CA-010-09-4212-13; CA 23666]

Realty Action; Exchange of Public Lands and Private Lands in Calaveras and Mariposa Counties, CA

AGENCY: Bureau of Land Management (BLM), Interior.

SUMMARY: The Public Lands described below have been determined to be suitable for disposal by exchange under the authority of section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716); this action involves all of the public land located within the following legal description:

Selected Public Land

Calaveras County, California

T. 2 N., R. 11 E., MDM,
Sec. 24.
T. 2 N., R. 12 E., MDM,
Sec. 19, 20, 29, & 30.

The subject public lands consist of several isolated unpatented parcels and fragments that vary in size from 72.69 acres to less than ¼-acre in size. All together they total approximately 145 acres. Supplemental survey plats are being prepared and a more specific legal description will be available upon completion.

In exchange for the above land the United States will acquire the following described private land from Meridian Minerals Company:

Offered Private Land

Mariposa County, California

T. 4 S., R. 18 E., MDM,
Sec. 10, Mineral Survey 5897.
Aggregating 19.28 acres, more or less.

The purpose of this exchange is to improve the Bureau's management capabilities on the Merced River. The United States will be acquiring riverfront property which is adjacent to a large block of public land several thousand acres in size. The exchange will allow the Bureau to dispose of several isolated parcels and fragments that are inaccessible to the public and difficult to manage. The action will include the transfer of the surface and mineral estate for all parcels exchanged.

The Federal land to be transferred will be subject to the following reservations, terms and conditions:

(1) A reservation to the United States for a right-of-way for ditches and canals constructed under the authority of the Act of August 30, 1890, (U.S.C. 945).

(2) The right to itself, its permittees or licensees, the right to enter upon, occupy and use, any part or all of that portion of Lot 1, Sec. 24, T. 2 N., R. 11 E., MDM, and Lot 11, Sec. 19, T. 2 N., R. 12 E., MDM, lying within 50 feet of the center line of the transmission line right-of-way Power Site Reserve Withdrawal No. 707, for the purposes set forth in and subject to the conditions and limitations of Sec. 24 of the Federal Power Act of June 10, 1920, as amended, (16 U.S.C. 818).

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** segregates the public lands from settlement, location and entry under the public land laws and the mining laws for a period of two years from the date of first publication.

FOR ADDITIONAL INFORMATION: Contact Mike Kelley, Folsom Resource Area Office, (916) 985–4474, at the address listed below. Also available for review is the land report/environmental assessment.

DATE: On or before December 27, 1988 interested parties may submit comments to the Bakersfield District Manager.

ADDRESS: Comments should be sent to the Bakersfield District Manager, c/o Folsom Resource Area Manager, 63 Natoma Street, Folsom, California 96530; (916) 985–4474. Any adverse comments will be forwarded to and evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

Date: November 4, 1988.

D.K. Swickard,

Area Manager.

[FR Doc. 88–26093 Filed 11–9–88; 8:45 am]

BILLING CODE 4310–22–M

[WY–060–09–5101–09–YKAK]

Availability of Amoco Co_2 Draft Environmental Impact Statement; Wyoming and Montana

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of Amoco Co_2 Draft Environment Impact Statement (DEIS), Wyoming and Montana.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Draft Environmental Impact Statement (DEIS) for the Amoco CO_2 Projects for public review and comment. The draft EIS, prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, analyzes the impacts of constructing, operating, and abandoning five related projects proposed by Amoco; a proposed CO_2 source near Fontenelle Reservoir in Southwestern Wyoming; transportation of the gas via underground pipeline to four fields; Elk Basin, Little Buffalo Basin, Beaver Creek, and the Salt Creek; and injection of the gas for enhanced oil recovery purposes.

DATE: Written comments on the DEIS will be accepted at the Casper District Office until Friday, January 6, 1989.

ADDRESSES: Copies of the DEIS are available from the following BLM offices:

Casper BLM District Office, 1701 E. East Street, Casper, Wyoming 82601.
Rock Springs District Office, Highway 191 North P.O. Box 1869, Rock Springs, Wyoming 82902–1869.
Wyoming State Office, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.
Miles City BLM District Office, P.O. Box 940, Miles City, Montana 59301.
Rawlins BLM District Office, P.O. Box 670, 1300 Third Street, Rawlins, Wyoming 82301.
Worland BLM District Office, P.O. Box 119, 101 South 23rd Street, Worland, Wyoming 82401.
Lander Resource Area Office, P.O. Box 589, 125 Sunflower Street, Lander, Wyoming 82520.

FOR FURTHER INFORMATION CONTACT: Glen Nebeker, Bureau of Land Management, Casper District Office, 1701 East E. Street, Casper, Wyoming 82601, phone (307) 261–5101.

SUPPLEMENTARY INFORMATION: The five proposed project are located almost entirely within the State of Wyoming, with the exception of portion of the Elk Basin field which lies in southern Carbon County, Montana. The five projects covered by the DEIS include: (1) Development of a natural source of CO_2 located in southwestern Wyoming, near Fontenelle reservior, which includes drilling ten wells in the Raptor Field, 24 miles of gas gathering pipelines, and construction of 150 million standard cubic foot per day (MMSCFD) gas processing plant; (2) The Elk Basin Project which consists of construction of 178 miles of 18 inch in diameter CO_2 pipeline and construction and operation of a 150 MMSCFD recycle plant located near the Wyoming/Montana border north of Powell, Wyoming; (3) Beaver Creek Project which consists of 44 miles of 16 inch in diameter pipeline to transport the CO_2 from the main trunkline to the proposed 150 MMSCFD recycle plant which is located south of Riverton, Wyoming; (4) the Little Buffalo Basin Project, which consists of construction of a 35 mile, 16 inch in diameter pipeline to carry the CO_2 from the main line to a proposed 150 MMSCFD recycle plant which will be located south of Meeteetse, Wyoming; and (5) the Salt Creek Project which consists of construction of 9 miles of 16 inch pipeline to carry the CO_2 to a proposed 150 MMSCFD recycle plant which will be built north of Casper, Wyoming.

Construction of the various components is scheduled to begin with the Fontenelle plant and development of the well field in 1989 and continues through completion of the Salt Creek project components scheduled for completion near the end of 1994.

F. William Eikenberry,

Associate State Director, Wyoming.

November 2, 1988.

[FR Doc. 88–26047 Filed 11–9–88; 8:45 am]

BILLING CODE 4310–22–M

[FES 88–47 and 88–48; CA–930–09–4332–13]

Final Environmental Impact Statements, California Section 202 Wilderness Study Areas (WSAs); Bakersfield District and Susanville District, CA et al.; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Errata notification.

SUMMARY: The recently published Final Environmental Impact Statements (EIS) for California Section 202 Wilderness Study Areas (WSAs) (53 FR 44672, November 4, 1988) regarding (1) the South Warner Contiguous and Carson Iceberg WSAs and (2) the Garcia Mountain, Rockhouse, Domeland, Machesna, Big Butte and Yolla Bolly WSAs contain an error in the responses to public comments. The responses are switched between documents. Therefore, the responses to public comments for one EIS are contained in the other EIS and vice-versa. The two EISs were distributed as a package, however, if necessary, additional copies of the responses can be obtained from:

Bureau of Land Management, California State Office (CA-930), 2800 Cottage Way, Sacramento, CA 95825.

Date: November 1, 1988.

Ed Hastey,

State Director.

[FR Doc. 88-26119 Filed 11-9-88; 8:45 am]

BILLING CODE 4310-40-M

[MT-920-10-4120-10]

Fort Union Regional Coal Team (RCT) Activities; Announcement of Public Meeting

ACTION: Public notice.

SUMMARY: The Fort Union Coal Team will hold a public meeting on December 16, 1988, to review Federal coal management issues of regional concern. The full agenda and other details for the RCT meeting are set out below.

DATE: The coal team will meet at 10 a.m. on December 16, 1988.

ADDRESS: The meeting will be held in the Colt Room of the Hospitality Inn, 532 15th West, Dickinson, North Dakota.

FOR FURTHER INFORMATION CONTACT: Bill Frey, telephone (406) 657-6841 or (FTS) 585-6841.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is to review Federal coal management issues of regional concern, including the final review, revision, and approval of the Fort Union Data Adequacy Standards. Comments may be submitted, in writing, by December 8, 1988, to State Director (921), Montana State Office, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107, or presented orally during the meeting.

Opportunities of statements from the public will be provided on all agenda items. The agenda for this meeting is as follows:

I. Introduction.
II. Approval of Minutes of November 5, 1987, RCT Meeting.
III. Status of Regional Coal Activity.
  A. Mine Production.
  B. Lease Statistics.
  C. Emergency Leasing.
  D. Preference Right Lease Applications.
  E. Other Activities.
IV. Fort Union Coal Production Region Deactivation.
V. Fort Union Action Plan.
VI. Data Adequacy Standards.
VII. Adjourn.

Dated: November 2, 1988.

Ray Brubaker,

Acting State Director.

[FR Doc. 88-26117 Filed 11-9-88; 8:45 am]

BILLING CODE 4310-DN-M

[CO-942-09-4520-12]

Filing of Plats of Survey; Colorado

October 31, 1988.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., October 31, 1988.

The plat representing the dependent resurvey of a portion of the New Mexico Principal Meridian (east boundary), portions of the south, west, and north boundaries, and subdivisional lines, and the subdivision of certain sections, T. 34 N., R. 1 W., New Mexico Principal Meridian, Colorado, Group No. 848, was accepted October 17, 1988.

This survey was requested by the U.S. Forest Service, Rocky Mountain Region, to identify the National Forest boundaries.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 88-26083 Filed 11-9-88; 8:45 am]

BILLING CODE 4310-JB-M

[AZ-020-09-4212-12; Serial No. AZA 23606]

Realty action; Gila and Salt River Meridian; Arizona

The following described public land under the administration of the Bureau of Land Management has been determined to be suitable for disposal through exchange under section 206 of the Federal Land and Policy Act of 1976, 43 U.S.C. 1716.

Selected Land

Gila and Salt River Meridian; Arizona

T. 15 N., R. 19 E.,
  Sec. 14, N½.
T. 5 N., R. 19 W.,
  Sec. 2, lots 1-4, incl., S½N½, S½.
T. 10 N., R. 16 W.,
  Sec. 2, N½N½NE¼.
T. 6 S., R. 23 E.,
  Sec. 31, lots 1-7, incl., NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 7 S., R. 23 E.,
  Sec. 2, lots 1-4, incl., S½NE¼, N½SW¼N W¼, SE¼NW¼;
  Sec. 6, lots 1-6, incl., SW¼NE¼, SE¼NW¼.
T. 14 S., R. 27 E.,
  Sec. 16, SE¼NE¼.
T. 14 S., R. 31 E.,
  Sec. 2, lots 3 & 4, S½NW¼, SW¼.
T. 14 S., R. 32 E.,
  Sec. 19, N½NE¼,
  Sec. 20, N½.

2,946.34 acres.

In exchange, the Bureau of Land Management will receive the following described lands from the State of Arizona:

Offered Land

Gila and Salt River Meridian, Arizona

T. 18 N., R. 20.,
  Sec. 20, all
  Sec. 28, all
T. 9 N., R. 9 W.,
  Sec. 32, lots 1-10, incl. E½NE¼, NW¼NW¼, SW¼SW¼, E½SE¼, SW¼,SE½.
T. 31 N., R. 11 W.,
  Sec. 2, S½N½, N½SW¼,SW¼SW¼, SE¼.
T. 33 N., R. 12 W.,
  Sec. 2, lots 1-4, incl., S½N½.
T. 34 N., R. 12 W.,
  Sec. 32, all.
T. 7 S., R. 25 E.,
  Sec. 24, that portion lying north of the golf course road.

3,274.12 acres.

The lands transferred from the United States will be conveyed subject to the following reservations:

AZA 006585, a Federal aid highway and a reservation of rights-of-way for ditches and canals to the United States, pursuant to the Act of August 30, 1890.

Publication of this notice shall segregate the subject lands from operation of the public land laws, including mining laws, (except for mineral leasing) for a period of two years. This segregation will terminate in two years or when a deed or patent is issued. More detailed information may be obtained from the Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 850027. For a period of 45 days from the date of this notice is published in the **Federal Register**, interested parties may submit comments to the Phoenix District Manager at the address listed above. Any adverse comments will be reviewed by the State

Director, who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Bureau of Land Management.

Date: November 2, 1988.

Henri R. Bisson,

District Manager.

[FR Doc. 88-26118 Filed 11-9-88; 8:45 am]

BILLING CODE 4310-32-M

[MT-060-09-4410-08 Montana]

Resource, Management Plan; Judith Resource Area et al.

AGENCY: Bureau of Land Management, Lewistown District, Montana Interior.

ACTION: Call for coal and other resource information for the Judith, Valley, Phillips Resource Management Plan, Lewistown District, Montana.

SUMMARY: As stated in the Notice of Intent published September 30, 1988, (FR, Vol. 53, No. 190, 38362), the Lewistown District has initiated a resource management plan for the public lands in the Judith, Valley and Phillips Resource Areas of Montana. The Bureau, in accordance with 43 CFR 3420.1-2, is formally soliciting indications of interest and information on the coal resource development potential for public lands and minerals in the Judith, Valley, Phillips planning area (Fergus, Judith Basin, Petroleum, Phillips, Valley and southern Chouteau counties). The BLM will not conduct any coal resource inventory in the planning area. Parties interested in Federal coal leasing and development will be expected to provide coal resource data for their area of interest. The adequacy and timing of the information received will determine the extent that the Federal coal resource and its development potential may be addressed in the RMP/EIS.

This notice also calls for indications of interest and resource information for other resources within the planning area. This includes, but is not limited to: Oil, gas, gold, wildlife, range and forest products. Identification of definite interests in resource development, substantiated with adequate resource data, at this time will allow addressing resource potentials in this plan and possibly avoid unnecessary work, delays, or near term revisions to the plan. Non-proprietary data and general comments should be submitted to:

District Manager, Bureau of Land Management, Lewistown District, 80 Airport Road, Lewistown, MT 59457.

Proprietary data marked as confidential may be submitted only to:

Chief, Branch of Solids, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, MT 59107.

DATES: Industry, state and local governments and the general public are encouraged to submit relevant information at any time during the planning process. However, information about coal and other resources will be most useful in focusing the Bureau's planning efforts if received prior to April 3, 1989.

FOR FURTHER INFORMATION CONTACT: Wayne Zinne, District Manager at (406) 538-7461 or write to: Lewistown District, 80 Airport Road, Lewistown, Montana 59457-9699.

Date: November 4, 1988.

Wayne Zinne,

District Manager.

[FR Doc. 88-26094 Filed 11-9-88; 8:45 am]

BILLING CODE 1616-09-M

Bureau of Reclamation

[INT-FES-88-51]

San Jacinto Project, Montgomery County, TX

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of Planning Report/Final. Environmental Statement (PR/FES).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a PR/FES for the San Jacinto Project, Texas. The PR/FES addresses the impacts of alternative water supply sources within the San Jacinto River basin which could help meet water needs.

ADDRESSES: Single copies of the PR/FES may be obtained on request to the Regional Director or the Texas Representative at the addresses below.

Copies of the PR/FES are available for inspection at the following locations:

Director, Public Affairs Office, Department of the Interior, Bureau of Reclamation, Room 7644, Washington, DC 20240; Telephone: (202) 343-4662.

Assistant Commissioner—Resources Management, Department of the Interior, Bureau of Reclamation, Program Services Division, Environmental Services, Federal Center, Building 67, Room 638, Denver, CO 80225; Telephone: (303) 236-9336.

Regional Director, Bureau of Reclamation, Great Plains Regional Office, P.O. Box 36900, Billings, MT; Telephone (406) 657-6214.

Office of the Texas Representative, Bureau of Reclamation, 300 East 8th, Post Office Box 1946, Austin, Texas 78767; Telephone: (512) 482-5641.

Libraries

University of Houston Library, 4800 Calhoun, Houston, TX 77004

Rice University Library, P.O. Box 1892, Houston, TX 77251

Montgomery County Library, P.O. Box 579, Conroe, TX 77305

Huntsville Public Library, 1212 Avenue M, Huntsville, TX 77340

Houston Public Library, Attn: Ms. Ruby Weaver, 500 McKinney, Houston, TX 77002

Harris County Public Library, 49 San Jacinto, Suite 200, Houston, TX 77002

Austin Memorial Library, 220 S. Bonham, Cleveland, TX 77327

Prairie View A&M University Library, Prairie View, TX 77446

Octavia Fields Library, 111 West Higgins, Humble, TX 77338

Harris Country Library, 701 James Street, Tomball, TX 77375

Texas Southern University Library, 3100 Cleburne, Houston, TX 77004

Texas A&M University, Sterling Evans Library, College Station, TX 77843

University of Texas, General Libraries, P.O. Box, Austin, TX 78713

Sam Houston State University, Newton Greshan Library, Huntsville, TX 77341

Magnolia Branch Library, 31350 Industrial Lane, Magnolia, TX 77355.

FOR FURTHER INFORMATION CONTACT:

Mr. Nicolas Palacios (Planning Study Manager), (512) 482-5641; or

Dr. Wayne O. Deason (Manager of Environmental Services, Federal Center), (303) 236-9336

SUPPLEMENTARY INFORMATION: The recommended plan proposes construction of a multi-purpose dam and reservoir, Lower Lake Creek, on the West Fork of the San Jacinto River in Montgomery County, Texas. The project would provide a municipal and industrial water supply, flood control, and recreation opportunities. No significant changes have been made to the recommended development plan as presented in the Bureau of Reclamation's planning report/draft environmental statement (DES 87-25).

The PR/FES presents the recommended plan and the no Federal action alterntive, describes the existing environment, and analyses the environmental consequences of project construction. It also presents the comments received during the 90-day public review of the draft statement and documents Reclamation's responses.

Date: October 25, 1988.

D.W. Webber,

Acting Deputy Commissioner.

[FR Doc. 88–26135 Filed 11–9–88; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Wilderness Review Amendment and Supplemental Environmental Impact Statement for the Becharof National Wildlife Refuge, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of record of decision.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has issued a Record of Decision (Decision) on the Wilderness Review Amendment and Supplemental Environmental Impact Statement (Statement) for the Wilderness Proposal of the Final Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness Review for the Becharof National Wildlife Refuge (Refuge), Alaska, pursuant to section 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act); section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Environmental Policy Act of 1969.

DATES: This Decision on the Statement will be implemented immediately with the Wilderness Proposal being sent to the Secretary of the Interior for review and forwarding to the President.

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.

Copies of the Decision will be sent to all persons and organizations on the Becharof Refuge mailing list. Others wishing to receive a copy of the Decison may obtain one by contacting Mr. Knauer

SUPPLEMENTARY INFORMATION: The Service has selected Alternative A, the Proposed Action, for implementation, As a result, the Service is recommending that an additional 347,000 acres of the Refuge be added to the National Wilderness Preservation System.

Date: November 1, 1988.

Walter O. Stieglitz,

Regional Director.

[FR Doc. 88–26121 Filed 11–9–88; 8:45 am]

BILLING CODE 4310–55–M

Wilderness Review Amendment and Supplemental Environmental Impact Statement for the Alaska Peninsula National Wildlife Refuge, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of record of decision.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has issued a Record of Decision (Decision) on the Wilderness Review Amendment and Supplemental Environmental Impact Statement (Statement) for the Wilderness Proposal of the Final Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness Review for the Alaska Peninsula National Wildlife Refuge (Refuge), Alaska, pursuant to section 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act); section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Environmental Policy Act of 1969.

DATE: This Decision on the Statement will be implemented immediately with the Wilderness Proposal being sent to the Secretary of the Intrerior for review and forwarding to the President.

DATES: William Knauer, Refugees and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3399.

Copies of the Decision will be sent to all persons and organizations on the Alaska Peninsula Refuge mailing list. Others wishing to receive a copy of the Decison may obtain one by contacting Mr. Knauer

SUPPLEMENTARY INFORMATION: The Service has selected Alternative A, the Proposed Action, for implementation, As a result, the Service is recommending that an additional 347,000 acres of the Refuge be added to the National Wilderness Preservation System.

Dated: November 1, 1988.

Walter O. Stieglitz,

Regional Director.

[FR Doc. 88–26046 Filed 11–9–88; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, U.S. Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS mineral proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EA's) and Findings of No Significant Impact (FONSI's), prepared by the MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Activity/Operator	Location	Date
Union Exploration Partners, Ltd., three exploratory wells, SEA No. N–2922A.	Pulley Ridge, Blocks 629 and 630, Leases OCS–G 6491 and 6492, 53 miles northwest of the Dry Tortugas, FL.	June 3, 1988.
Mobil Exploration & Producing U.S. Inc., four exploratory wells, SEA No. N–3022.	Pulley Ridge, Block 799, Lease OCS–G 6520, 187 miles southwest of Port Manatee, FL.	July 22, 1988.
Meridian Oil Inc., one exploratory well, SEA No. N–3013	High Island Area, East Addition, South Extension, Block A–400, Lease OCS–G 6263, 119 miles southeast of the Texas coastline.	July 8, 1988.
Union Exploration Partners, Ltd., one exploratory well, SEA No. R–2116.	High Island Area, East Addition, South Extension, Block A–384, Lease OCS–G 3316, 110 miles southeast of the Texas coastline.	Aug. 18, 1988.
Tenneco Oil Company, structure removal operations, SEA No. ES/SR 88–008.	Galveston Area, Block 393, Lease OCS–G 3741, 23 miles south of Brazoria County, TX.	July 6, 1988.
Exxon Company, U.S.A., structure removal operations, SEA No. ES/SR 88–010.	West Delta Area, Blocks 30 and 31, Leases OCS 0026 and 0016, 8 miles south of Plaquemines Parish, LA.	Aug. 12, 1988.
Tenneco Oil Company, structure removal operations, SEA No. ES/SR 88–011.	West Cameron Area, Block 180, Lease OCS 0763, 28 miles south of Cameron Parish, LA.	May 31, 1988.
Tenneco Oil Exploration and Production, structure removal operations, SEA No. ES/SR 88–012.	Sabine Pass Area, Block 13, Leases OCS–G 3959, 24 miles southeast of Sabine Pass, TX.	Do.
Tenneco Oil Exploration and Production, structure removal operations, SEA No. ES/SR 88–013.	East Cameron Area, Block 255, Lease OCS–G 2040, 75 miles south of Cameron Parish, LA.	Aug. 5, 1988.

Activity/Operator	Location	Date
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 88-014.	Ship Shoal Area, Block 32, Lease OCS 0335, 10 miles south of Terrebonne Parish, LA.	June 3, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-015.	Main Pass Area, Block 91, Lease OCS-G 1499, 10 miles southeast of St. Bernard Parish, LA.	Aug. 5, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-016.	Eugene Island Area, South Addition, Block 354, Lease OCS-G 3573, 99 miles south of Iberia Parish, LA.	Aug. 8, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-017.	Eugene Island Area, Block 119, Lease OCS 049, 22 miles south of Terebonne Parish, LA.	Aug. 5, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-018.	Vermilion Area, Block 182, Lease OCS-G 2074, 52 miles south of Iberia Parish, LA.	Aug. 8, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-019.	Vermilion Area, Block 76, Lease OCS 0249, 18 miles south of Vermilion Parish, LA.	Aug. 5, 1988.
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 88-020.	Ship Shoal Area, South Addition, Block 296, Lease OCS-G 1535, 75 miles south of Terrebonne Parish, LA.	Sept. 1, 1988.
Conoco Inc., structure removal operations, SEA No. ES/SR 88-022	West Cameron Area, Block 135, Lease OCS-G 1470, 20 to 30 miles south of Cameron and Vermilion Parishes, LA.	Aug. 3, 1988.
Conoco Inc., structure removal operations, SEA No. ES/SR 88-023	Vermilion Block 242, Lease OCS-G 3133, 72 miles south of Vermilion Parish, LA.	Aug. 17, 1988.
Conoco Inc., structure removal operations, SEA No. ES/SR 88-024	East Cameron Area, Block 47, Lease OCS 0767, 20 to 52 miles south of Cameron and Vermilion Parishes, LA.	Aug. 3, 1988
Conoco Inc., structure removal operations, SEA No. 88-025	Ship Shoal Area, Block 206, Lease OCS-G 1522, 48 miles south of Terrebonne Parish, LA.	Aug. 17, 1988.
Conoco Inc., structure removal operations, SEA No. ES/SR 88-026	South Marsh Island Area, North Addition, Block 261, Lease OCS-G 2306, 20 to 52 miles south of Cameron and Vermilion Parishes, LA.	Aug. 3, 1988.
Conoco Inc., structure removal operations, SEA No. ES/SR 88-027	West Cameron Area, Block 261, Lease OCS-G 3501, 20 to 52 miles south of Cameron and Vermilion Parishes, LA.	Do.
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 88-028.	East Cameron Area, Block 34, Lease OCS-G 2855, 21 miles southeast of Grand Chenier, LA.	May 31, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-029.	West Cameron Area, Blocks 132 and 101, Leases OCS 0251 and 0246, 23 and 16 miles south of Cameron Parish, LA.	Aug. 25, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-030.	South Pelto Area, Block 12, Lease OCS 071, 20 miles south of Terrebonne Parish, LA.	Aug. 18, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-031.	South Marsh Island Area, North Addition, Block 235, Lease OCS-G 2300, 15 miles southwest of Iberia Parish, LA.	Do.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-032.	West Cameron Area, Block 71, Lease OCS 0244, 15 and 10 miles southwest of Iberia and Cameron Parishes, LA.	Aug. 18, 1988.
Exxon Company, U.S.A., structure removal operations, SEA No. ES/SR 88-033.	High Island Area, East Addition, South Extension, Blocks A-343 and A-342, Leases OCS-G 2741 and 2740, 120 miles south of Cameron Parish, LA.	Aug. 11, 1988.
Exxon Company, U.S.A., structure removal operations, SEA No. ES/SR 88-033.	High Island Area, East Addition, South Extension, Blocks A-343 and A-342, Leases OCS-G 2741 and 2740, 120 miles south of Cameron Parish, LA.	Sept. 21, 1988.
Texaco U.S.A., structure removal operations, SEA No. ES/SR 88-034	High Island Area, Block 111, Lease OCS-G 2354, 36 miles east of Galveston, TX.	Aug. 25, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-035.	Vermilion Area, Block 76, Lease OCS 0249, 18 miles south of Vermilion Parish, LA.	Aug. 18, 1988
Samedan Oil Corporation structure removal operations, SEA No. ES/SR 88-037/037A.	Galveston Area, Block 241, Lease OCS-G 4846, 18 miles southeast of Galveston, TX.	Aug. 25, 1988.
BHP Petroleum, structure removal operations, SEA No. ES/SR 88-038	High Island Area, South Addition, Block A-507, Lease OCS-G 3755, 66 miles southeast of Brazoria County, TX.	Aug. 23, 1988.
Conoco Inc., structure removal operations, SEA No. ES/SR 88-039	West Delta Area, Block 45, Lease OCS 0138, 18 miles south of Plaquemines Parish, LA.	Aug. 3, 1988.
Conoco Inc., structure removal operations, SEA No. ES/SR 88-040/041/042.	Grand Isle Area, Blocks 63, 45, and 47, Leases OCS-G 1054 and 1582 and OCS 0133, 21 miles south of Lafourche Parish, LA.	Aug. 18, 1988.
Tenneco Oil Exploration and Production, structure removal operations, SEA No. ES/SR 88-043.	Ship Shoal Area, Block 199, Lease OCS 0594, 44 miles south of Terrebone Parish, LA.	Aug. 16, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-044.	East Cameron Area, Block 14, Lease OCS-G 1440, 10 miles south of Cameron Parish, LA.	Sept. 15, 1988.
Union Exploration Partners, Ltd., structure removal operations, SEA No. ES/SR 88-046.	Vermilion Area, Block 38 (S/2), Lease OCS 0204, 33 miles southwest of Intracoastal City, LA.	June 7, 1988.
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 88-047.	Ship Shoal Area, Blocks 29, 28, and 32, Leases OCS 0345, 0346, and 0335, 6 miles south of Terrebonne Parish, LA.	June 22, 1988
FMP Operating Company, structure removal operations, SEA No. ES/SR 88-049.	West Cameron Area, South Addition, Block 464, Lease OCS-G 2545, 77 miles southwest of Cameron Parish, LA.	Aug. 8, 1988.
Mobil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-011A.	Mustang Island Area, East Addition, Block A-90, Lease OCS-G 8986, 38 miles southeast of Aransas County, TX.	Aug. 5, 1988.
Placid Oil Company structure removal operations, SEA No. ES/SR 88-053.	Ship Shoal Area, Blocks 204, 207, and 216, Leases OCS-G 1520, 1523, and 1524, 36 miles south of Terrebonne Parish, LA.	Aug. 19, 1988.
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 88-055.	Eugene Island Area, Block 41, Lease OCS-G 4857, 8 miles south of St. Mary Parish, LA.	July 22, 1988.
Amoco Production Company, structure removal operations, SEA No. ES/SR 88-056.	Mustang Island Area, Block 755, Lease OCS-G 3018, 20 miles south of St. Joseph Island, TX.	Aug. 17, 1988.
Texaco U.S.A., structure removal operations, SEA No. ES/SR 88-057	South Marsh Island Area, North Addition, Blocks 218 and 222, Lease OCS 0310, 8 miles southwest of Iberia Parish, LA.	Aug. 9, 1988.
Mobil Oil Exploration and Producing U.S. Inc., structure removal operations, SEA No. ES/SR 88-058.	Main Pass Area, Block 92, Lease OCS-G 1366, 30 miles northeast of Plaquemines Parish, LA.	July 29, 1988.
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 88-048A.	South Timbalier Area, Block 21, Lease OCS 0263, 20 miles south of Terrebonne Parish, LA.	July 22, 1988.
Arco Oil and Gas Company, structure removal operations, SEA No. ES/SR 88-059.	High Island Area, Block 68, Lease OCS-G 6145, 14 miles south of Jefferson County, TX.	Aug. 31, 1988.

Activity/Operator	Location	Date
CNG Producing Company structure removal operations, SEA No. ES/SR 88-060.	East Cameron Area, Block 118, Lease OCS-G 1974, 35 miles south of Cameron Parish, LA.	Sept. 22, 1988.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, Telephone (504) 736-2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources and structure removals on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of the NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA. This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Date: November 3, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-26048 Filed 11-9-88; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Date: November 7, 1988.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and coorespondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) WISCO Farm Cooperative, P.O. Box 753, Lake Mills, WI 53551.

(2) 450 North C.P. Avenue, Lake Mills, WI 53551.

(3) Mr. Jerome J. Kuhl, P.O. Box 753, Lake Mills, WI 53551.

Noreta R. McGee,

Secretary.

[FR Doc. 88-26006 Filed 11-9-88 8:45 am]

BILLING CODE 7035-01-M

Intention 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).

Super Valu Stores, Inc., P.O. Box 990, Minneapolis, Minnesota 55440.

Subsidiaries	State of incorporation
J.M. Jones Co., Champaign, IL	Delaware.
Lewis Grocer Co., Indianola, MS	Mississippi.
Lewis Grocer Co., Hammond, LA	Mississippi.
Preferred Products, Inc., Chaska, MN.	Minnesota.
Shopko Stores, Inc., Green Bay, WI.	Minnesota
SVS Trucking, Inc., Eden Prairie, MN.	Minnesota.
Western Grocers Inc., Albuquerque, NM.	Colorado.
Western Grocers Inc., Denver, CO	Colorado.
West Coast Grocery Co., Salem, OR.	Washington.
West Coast Grocery Co., Spokane, WA.	Washington.
West Coast Grocery Co., Tacoma, WA.	Washington.
Twin Valu Stores, Inc., Eden Prairie, MN.	Minnesota.

Noreta R. McGee,

Secretary.

[FR Doc. 88-26007 Filed 11-9-88; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-C-30117]

Regular Common Carrier Conference; Petition for Declaratory Order; Range of Discounts and Customer Account Codes

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of proceeding.

SUMMARY: By petition filed July 13, 1988, the Regular Common Carrier Conference (RCCC) seeks a declaratory order to the effect that: (1) Discount tariff provisions of motor common carriers of property (other than household goods) containing ranges of discounts which can apply to a given shipment are contrary to 49 U.S.C. 10761 and 10762; and (2) such tariff provisions naming rates that apply only to customers identified only by account codes are contrary to 49 U.S.C. 10701(a), 10761, and 10762. RCCC asks the Commission to strike all such tariff provisions. The Commission seeks comments from interested parties. All motor common carriers of other than household goods are hereby placed on notice that, should we grant the petition, they will be directed to cancel certain tariff provisions. Accordingly, they are all made respondents in this proceeding.

DATES: Persons interested in participating in this proceeding shall advise the Commission in writing by December 12, 1988. A service list will then be prepared. Comments shall be filed with us and a copy served on each party on the service list within 30 days

of the service date of the list. Reply comments will be due within 50 days of the service date of the list.

ADDRESS: The original and, if possible, 10 copies of comments referring to No. MC–C–30117 should be addressed to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Jane Udovic (202) 275–7982

or

Richard Felder (202) 275–7691

[TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: RCCC also asks the Commission to reverse the Special Permission Board decision in Special Tariff Authority No. 86–639, *Outstanding Relief for "Shipper Account Codes"—Individual Motor Common Carriers and Freight Forwarders* (not printed), decided March 28, 1986, which grants blanket special permission authorizing motor common carriers and freight forwarders to use shipper account codes rather than shipper names in tariffs filed with the Commission.

In addition to its statutory arguments, RCCC contends that these tariff provisions are similar to other tariff provisions the Commission and a Federal court have found violate the statute. RCCC also notes that in a similar proceeding, No. MC–C–30029, *Andrews Van Lines, Inc., et al.—Petition for Declaratory Order* (not printed), served July 20, 1987, 52 FR 27471, July 21, 1987, the Commission instituted a proceeding to consider the lawfulness of tariff provisions of household goods carriers containing ranges of discounts.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 275–7428. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

Authority: 5 U.S.C. 554(e), and 49 U.S.C. 10701(a), 10761, and 10762.

Decided: October 28, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 88–25948 Filed 11–9–88; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31350]

Midwest Coal Handling Co., Inc.; Trackage Rights and Operation Exemption; Line of CSX Transportation, Inc. in Muhlenberg County, KY

Midwest Coal Handling Company, Inc. (Midwest), a noncarrier, has filed a notice of exemption to acquire by trackage rights and to operate approximately 12.24 miles of line owned by CSX Transportation, Inc., in Muhlenberg County, KY. The line extends from milepost 180 at Central City to milepost 172 south of Drakesboro and from station 0+00 at Drakesboro to station 244+39 at the facilities of the Tennessee Valley Authority near Paradise. The transaction was expected to be consummated on or after October 28, 1988.

Any comments must be filed with the Commission and served on William C. Evans, Verner, Liipfert, Bernhard, McPherson and Hand, Suite 700, 901 15th Street, NW., Washington, DC 20005–2301.

Midwest has certified that no properties qualifying for inclusion in the National Register of Historic Places will be affected by the transaction.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 3, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–25855 Filed 11–9–88; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–290 (Sub-No. 19X)]

Norfolk and Western Railway Co., et al.; Abandonment Exemption Between Whitehouse and Liberty Center, OH

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 10.7-mile line of railroad between milepost T–17.3 at Whitehouse, OH, and milepost T–28.0 at Liberty Center, OH.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years and overhead traffic is not moved over the line or may be rerouted; and (2) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective December 10, 1988 (unless stayed pending reconsideration). Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[1] must be filed by November 21, 1988. Petitions to stay regarding matters that do not involve environmental issues [2] and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 30, 1988 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Virginia K. Young, Norfolk Southern Corporation, One Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will serve the EA by November 15, 1988. Interested persons may obtain a copy of the EA fom SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling

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[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440–48446).

[2] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 4 I.C.C.2d 400 (1988).

Carl Bausch, Chief, SEE at (202) 275–7316.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 3, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–25854 Filed 11–9–88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Cleveland Wrecking Co. and Atlantic Richfield Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 3, 1988 a proposed Superseding Consent Decree in *United States v. Cleveland Wrecking Company,* (S.D. NY) Civil Action No. 83 Civ. 7193 (KTD) and that on November 3, 1988 a proposed Consent Judgment in *United States v. Cleveland Wrecking Company and Atlantic Richfield Company,* (D. Montana) Civil Action No. CV–86–125–BU–PGH was located with the United States District Court for the Southern District of New York and the United States District Court for Montana, Butte Division, respectively. The proposed Superseding Consent Decree and Consent Judgment concern violations of the Asbestos National Emission Standards for Hazardous Air Pollutants ("NESHAP"), 40 CFR 61.140, *et seq.*, and the Clean Air Act, 42 U.S.C. 7401, *et seq.* The proposed Superseding Consent Decree requires the defendant Cleveland Wrecking Consent Decree requires defendant Cleveland Wrecking Company, among other things, to comply with the requirements of NESHAP for asbestos in 40 CFR 61.140, *et seq.*, to pay a civil penalty of $15,000, to initiate an asbestos control program, and to initiate an EPA-approved asbestos training program. Pursuant to the Consent Judgment defendants Cleveland Wrecking Company and Atlantic Richfield Company must pay a civil penalty of $140,000.

The Department of Justice will receive comments relating to the proposed Superseding Consent Decree and Consent Judgment for a period of thirty (30) days from the date of this publication. 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. Cleveland Wrecking Company and Atlantic Richfield Company, D.J.* No. 90–5–2–1–849. The comments should specify whether they refer to the Superseding Consent Decree or the Consent Judgment, or both.

The proposed Superseding Consent Decree may be examined at the office of the United States Attorney for the Southern District of New York, One St. Andrew's Plaza, New York, New York 10007 and at the United States Environmental Protection Agency, Region III, 841 Chestnut Street, Philadelphia, Pennsylvania 19107. The proposed Consent Judgment maybe examined at the office of the United States Attorney for the District of Montana, Federal Building, Room 167, 400 N. Main Street, Butte, Montana 59701 and at the United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 700, Denver Colorado 80202–2413.

The Decree and Judgment also may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street 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. In requesting a copy, please enclose a check in the amount of $5.00 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–26090 Filed 11–9–88; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application for Registration for Hoffmann-La Roche Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 27, 1988, Hoffmann-La Roche Inc., 340 Kingsland Street, Nutley, New Jersey 07110, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I.
Alphaprodine (9010)	II.
Levorphanol (9220)	II.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than December 12, 1988.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: November 3, 1988.

[FR Doc. 88–26077 Filed 11–9–88; 8:45 am]

BILLING CODE 4410-09-M

Hueytown Discount Drugs; Revocation of Registration

On September 2, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Hueytown Discount Drugs, 1355 Hueytown Road, Hueytown, Alabama 35023, proposing to revoke the pharmacy's DEA Certificate of Registration BH0720652, and to deny any pending applications for renewal of the registration. The statutory basis for this action was that the pharmacy's continued registration was inconsistent with the public interest, as set forth in 21 U.S.C. 823(f) and 824(a)(4). Additionally, citing his preliminary finding that the pharmacy's continued registration posed an imminent threat to the public health and safety, the Administrator ordered the immediate suspension of the pharmacy's DEA Certificate of Registration BH0720652 during the pendency of this proceeding. 21 U.S.C. 824(d).

The Order to Show Cause and Immediate Suspension of Registration was personally served on Frederick A. Gach, R.Ph., the registered pharmacist and owner of Hueytown Discount Drugs, on September 8, 1988. More than thirty days have passed since the Order to Show Cause was served, and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), the Administrator concludes that Hueytown Discount Drugs has waived its opportunity for a hearing. Accordingly, the Administrator now enters this final order in the matter without a hearing

and based upon the investigative file. 21 CFR 1301.57.

The Administrator finds that prior to June 1988, the Jefferson County Sheriff's Office, Bessemer, Alabama, received reliable information that Frederick Gach was unlawfully dispensing controlled substances from Hueytown Discount Drugs. Their investigation revealed that from June 3 to 14, 1988, Mr. Gach unlawfully dispensed large quantities of controlled substances to individuals for other than legitimate medical purposes and without receiving valid written prescriptions for the drugs dispensed. The drugs included Vicodin, Fastin, Dilaudid, amphetamine and diazepam.

On June 3, 1988, a cooperating individual purchased 152 dosage units of Fastin capsules (Schedule IV) and legend drugs from Mr. Gach at Hueytown Discount Drugs for the sum of $100.00. On June 13, 1988, at approximately 12:00 p.m., a cooperating individual purchased 400 dosage units of diazepam 10 mg. tablets (Schedule IV) and legend drugs from Mr. Gach for the sum of $100.00. Approximately one hour later, a cooperating individual was able to purchase 85 dosage units of Vicodin tablets (Schedule III), 194 dosage units of diazepam 10 mg. tablets (Schedule IV) and three amphetamine capusles from Mr. Gach for the sum of $150.00. All transactions were monitored by the Jefferson County Sheriff's Office. In each instance, Mr. Gach freely dispensed the controlled substances without receiving prescriptions.

On July 14, 1988, a cooperating individual, under the direction of the Hueytown Police Department, purchased five Dilaudid tablets (Schedule II) and 100 dosage units of diazepam 10 mg. tablets (Schedule IV) from Mr. Gach at Hueytown Discount Drugs for the sum of $320.00. Once the transaction was completed, Mr. Gach was arrested on charges of unlawful distribution of controlled substances, in violation of Alabama Statutes 13A–12–211.

On June 16, 1988, Inspectors from the Alabama State Board of Pharmacy conducted a controlled substance accountability audit at the pharmacy. The audit revealed excessive, unexplained shortages of Valium 10 mg. and generic diazepam 10 mg. tablets and an overage of Dilaudid 4 mg. tablets. The audit also revealed discrepancies between the records maintained in the pharmacy's controlled substance prescription files and the pharmacy's computerized prescription records.

The Administrator finds that despite his arrest for unlawful distribution of controlled substances, Mr. Gach has continued his unlawful practices. On July 18, 1988, a cooperating individual under the supervision of the Jefferson County Sheriff's Office purchased legend drugs from Gach for the sum of $10.00. Additionally, on July 28, 1988, a cooperating individual purchased a 16 oz. bottle of Hycodan liquid (Schedule III) and 10 dosage units of Didrex tablets (Schedule III) from Mr. Gach for the sum of $60.00. Finally, on August 1, 1988, a cooperating individual purchased 40 dosage units of Didrex tablets (Schedule III) and legend drugs from Mr. Gach for the sum of $40.00. At no time did Mr. Gach receive any prescriptions for the drugs he dispensed. All of these transactions were corroborated by an agent of the Jefferson County Sheriff's Office.

The Administrator finds that there is overwhelming evidence to conclude that the continued registration of Hueytown Discount Drugs is inconsistent with the public interest. 21 U.S.C. 824(a)(4). In July 1988, Frederick Gach was arrested for unlawful distribution of controlled substances. As recently as August 18, 1988, he continued to sell dangerous controlled substances for other than legitimate medical purposes. The Administrator finds that Mr. Gach intentionally diverted large quantities of controlled substances from legitimate channels. No evidence of explanation or mitigating circumstances has been offered on behalf of the registrant. The Administrator cannot conceive of any explanation which would excuse Mr. Gach's criminal and unprofessional conduct. To protect the public interest and to prevent further diversion of controlled substances, the pharmacy's DEA registration must be revoked.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), orders that DEA Certificate of Registration BH0720652, previously issued to Hueytown Discount Drugs, be, and it hereby is, revoked. It is further ordered that any pending applications for renewal of said registration be, and they hereby are, denied.

At the time the Order to Show Cause and Immediate Suspension of Registration was served on Hueytown Discount Drugs, all controlled substances possessed by the pharmacy under the authority of its then-suspended registration were placed under seal and removed for safekeeping. 21 U.S.C. 824(f) provides that no disposition may be made of such controlled substances under seal until the time for taking appeals has elapsed. Accordingly, these controlled substances shall remain under seal until December 12, 1988, or until any appeal of this order has been concluded. At that time, all such controlled substances shall be forfeited to the United States and shall be disposed of pursuant to 21 U.S.C. 881(e).

This order is effective November 10, 1988.

John C. Lawn,

Administrator.

Dated: November 4, 1988.

[FR Doc. 88–26074 Filed 11–9–88; 8:45 am]

BILLING CODE 4410–09–M

Robert W. Sonntag, M.D.; Revocation of Registration

On August 15, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Robert W. Sonntag, M.D., of 7080 Hollywood Boulevard, Hollywood, California 90028, proposing to revoke his DEA Certificate of Registration AS1464952, and to deny any pending applications for renewal of his registration as a practitioner under 21 U.S.C. 823(f). The statutory predicate for the issuance of the Order to Show Cause was Dr. Sonntag's lack of authorization to handle controlled substances in the State of California. The Order to Show Cause further alleged that Dr. Sonntag's registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4), thereby providing a second statutory basis for the revocation of his registration.

Additionally, citing his preliminary finding that his continued registration posed an imminent danger to the public health and safety, the Administrator ordered the immediate suspension of Dr. Sonntag's registration during the pendency of this proceeding.

The Order to Show Cause/Immediate Suspension of Registration was personally served on Dr. Sonntag on September 2, 1988. More than thirty days have passed since the service of the Order to Show Cause, and DEA has received no response thereto. Therefore, the Administrator concludes that Dr. Sonntag has waived his opportunity for a hearing on the issues raised by the Order to Show Cause and, pursuant to 21 CFR 1301.54(d) and 1301.54(e), enters this final order without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that on June 8, 1988, the California Board of Medical Quality Assurance (BMQA) revoked Dr. Sonntag's license to practice medicine in California. Dr. Sonntag's medical license was revoked following his arrest by the Los Angeles Police Department on

August 24, 1985, for unlawful possession of morphine, a Schedule II controlled substance. On that day, police officers found Dr. Sonntag in a nearly unconscious state sitting in the driver's seat of a parked car. Dr. Sonntag was holding a hypodermic syringe, with its needle intact, which he then tried to hide as the officers approached the car. An elastic arm band lying on Dr. Sonntag's lap and numerous prescription vials were observed in the car. Dr. Sonntag's behavior led the officers to believe that he was under the influence of an opiate. The officers also observed recent needle marks and numerous scars on Dr. Sonntag's left arm. Dr. Sonntag was arrested and charged with unlawful possession of a controlled substance and being under the influence of opiates. Two examining doctors at the Central Jail facility concluded that Dr. Sonntag was under the influence of opiates.

Based on this arrest, the California BMQA revoked Dr. Sonntag's license to practice medicine in that state. Therefore, as of June 8, 1988, Dr. Sonntag was no longer authorized to handle any controlled substances in the State of California. The Administrator and his predecessors have consistently held that DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. 21 U.S.C. 823(f) and 824(a)(3); See *Edward V. McIver, M.D.*, 53 FR 16477 (1988); *Howard J. Reuben, M.D.*, 52 FR 8375 (1987); *Ramon Pla, M.D.*, Docket No. 86–54, 51 FR 41168 (1986); and cases cited therein.

The Administrator also finds that Dr. Sonntag's continued registration is inconsistent with the public interest. The BMQA found that during the period from 1983 to 1984, Dr. Sonntag unlawfully administered or furnished morphine sulfate to fifteen patients without a medical indication therefor. The BMQA concluded that Dr. Sonntag's controlled substance handling practices were incompetent, excessive and grossly negligent. In many cases his excessive prescribing of morphine sulfate was carried out over a prolonged period, presenting a high risk of addiction to the user of the drug. A medical expert retained by BMQA reviewed 120 patient charts, together with Dr. Sonntag's narcotic dispensing chart, and concluded that in not one of the cases where Dr. Sonntag dispensed or prescribed morphine was there a medical justification for doing so. The expert found that the majority of Dr. Sonntag's patients appeared to be homosexuals who were afflicted with recurrent anal warts. Although Dr. Sonntag's treatment of the warts may have been painful, the expert found that is was "neither customary or advisable" to treat these patients with morphine sulfate. He found that the patients invovled were prone to addiction because of their relative youth. Dr. Sonntag's clearly excessive prescribing practices constituted an imminent danger to his patients.

In addition to prescribing dangerous controlled substances to persons for other than legitimate medical purposes, the Administrator finds that after his state medical license was revoked, Dr. Sonntag continued to order and receive large quantities of controlled substances. During June and July of 1988, Dr. Sonntag ordered a total of 4,000 dosage units of morphine sulfate .5 g. tablets. Dr. Sonntag clearly had no authority to handle controlled substances at that time. Such behavior evidences a total disregard for controlled substance laws and regulations.

Finally, the investigative file reveals that Dr. Sonntag has a history of personnally abusing dangerous controlled substances, particularly morphine. As discussed earlier, the revocation of Dr. Sonntag's state medical license was based, in part, on his personal abuse of morphine. Dr. Sonntag appears to have a personal drug problem. He cannot be entrusted with the responsibilities of a DEA registration.

The Administrator notes that on September 2, 1988, when DEA served the immediate suspension order on Dr. Sonntag at his Corona Del Mar residence, he was simultaneously served with state criminal search and arrest warrants. Felony charges under California statutes are currently pending against Dr. Sonntag for practicing medicine without a license and illegally possessing controlled substances.

Based on Dr. Sonntag's lack of state authorization to handle controlled substances, the Administrator concludes that his DEA registration must be revoked. In addition, because of overwhelming evidence that his state medical license was revoked based upon unlawful controlled substance handling practices, that he continued to handle controlled substances long after his medical license was revoked, and that he has a serious abuse problem, the Administrator concludes that Dr. Sonntag's continued registration is contrary to the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), orders that DEA Certificate of Registration AS1464952, previously issued to Robert W. Sonntag, M.D., be, and it hereby is, revoked. It is further ordered that any pending applications for renewal of said registration be, and they hereby are, denied.

This order is effective November 10, 1988.

John C. Lawn,

Administrator.

Dated: November 4, 1988.

[FR Doc. 88–26076 Filed 11–9–88; 8:45 am]

BILLING CODE 4410–09–M

William T. Williamson, M.D.; Revocation of Registration

On September 2, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William T. Williamson, M.D., of 720 Brookside Avenue, Redlands, California 92373, proposing to revoke his DEA Certificate of Registration AW7380405, and to deny any pending applications for renewal of his registration as a practitioner under 21 U.S.C. 823(f). The statutory predicate for the issuance of the Order to Show Cause was Dr. Williamson's lack of authorization to handle controlled substances in the State of California. In addition, the Order to Show Cause alleged that Dr. Williamson's continued registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

A registered mail receipt indicates that the Order to Show Cause was received by Dr. Williamson on September 17, 1988. More than thirty days have passed since the Order to Show Cause was received by Dr. Williamson and the Drug Enforcement Administration has received no response thereto. Therefore, the Administrator concludes that Dr. Williamson has waived his opportunity for a hearing on the issues raised by the Order to Show Cause and, pursuant to 21 CFR 1301.54(d) and 1301.54(e), enters this final order based on the investigative file. 21 CFR 1301.57.

The Administrator finds that on January 1, 1988, the State of California, Board of Medical Quality Assurance, (BMQA), revoked Dr. Williamson's medical license in that state, effective January 7, 1988. Consequently, Dr. Williamson is no longer authorized to handle controlled substances in California.

The Drug Enforcement Administration does not have the authority to maintain

the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 823(f) and 824(a)(3). The Administrator has consistently so held. See *Fazal Ahmad, M.D.*, Docket No. 85–46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85–8, 50 FR 34208 (1984); and *Aqostino Carlucci, M.D.*, Docket No. 82–20, 40 FR 33184 (1984). In the instant case, it is clear that Dr. Williamson is not currently authorized to handle controlled substances in the State of California. Without the appropriate state authority to handle controlled substances, Dr. Williamson cannot hold a DEA Certificate of Registration.

The Administrator also finds that, on at least eleven occasions in 1986 and 1987, Dr. Williamson issued prescriptions for excessive quantities of controlled substances to several individuals for other than legitimate medical purposes and without conducting proper medical examinations. Dr. Williamson exhibited a disregard for the dangerous nature of the controlled substances he prescribed, to wit: Doriden (Schedule II), Butisol (Schedule III), and Fastin (Schedule IV). Dr. Williamson attempted to conceal his unlawful activities by writing various medical symptoms in the patients' medical charts even though the individuals never suffered from, nor complained of, any symptoms.

Additionally, the Administrator finds that Dr. Williamson has a history of personally using and abusing controlled substances. From March 1984 through May 1987, Dr. Williamson issued prescriptions to an individual for Talwin, a Schedule IV controlled subtance. That individual would have the prescriptions filled at various pharmacies in different communities. The Talwin tablets were then used by the individual and Dr. and Mrs. Williamson for other than legitimate medical purpose. During this period, Dr. Williamson occasionally injected himself with Talwin as well. Such behavior demonstrates a lack of understanding of the responsibilities that come with a DEA Certificate of Registration.

Based upon Dr. Williamson's lack of state authorization to handle controlled substances, the Administrator concludes that his registration must be revoked. Additionally, evidence of Dr. Williamson's unlawful prescribing practices and personal abuse of controlled substances support the conclusion that his continued registration is contrary to the public interest. Therefore, the Administrator concludes that Dr. Williamson's registration must be revoked and that any pending applications for renewal thereof must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), orders that DEA Certificate of Registration AW7380405, previously issued to William T. Williamson, M.D., be, and it hereby is, revoked. It is further ordered that any pending applications for renewal of said registration be, and they hereby are, denied.

This order is effective November 10, 1988.

John C. Lawn,

Administrator.

Dated: November 4, 1988.

[FR Doc. 88–26075 Filed 11–9–88; 8:45 am]

BILLING CODE 4410–09–M

Federal Bureau of Investigation

National Crime Information Center Advisory Policy Board Meeting

The Advisory Policy Board of the National Crime Information Center (NCIC) will meet on December 7–8, 1988, from 9 a.m. until 5 p.m. at the Sheraton at Fisherman's Wharf, 2500 Mason Street at beach, San Francisco, California 94133.

The major topics to be discussed will include the NCIC 2000 Risk Analysis, the status of deoxyribonucleic acid technology, status of the Violent Crime Apprehension Program, a proposal to amend the NCIC Bylaws to permit a representative of a regional computer system to be elected as a "local" voting member of the NCIC Regional Working Groups, and the NCIC Vehicle and Wanted Person Files Survey results.

The meeting will be open to the public with approximately 25 seats available on a first-come, first-served basis. Any member of the Public may file a written statement with the Advisory Policy Board before or after the meeting. Anyone wishing to address a session of the meeting should notify the Committe Management Liaison Officer, Mr. William A. Bayse, FBI, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable or hand-delivered note. It should contain the name, corporate designation, consumer affiliation, or Government designation, along with the capsulized version of the statement and an outline of thematerial to be offered. A person will be allowed not more than 15 minutes to present a topic, except with the special approval of the Chairman of the Board.

Inquiries may be addressed to Mr. William A. Bayse, Committee Management Liaison Officer, Technical Services Division, Federal Bureau of Investigatio, Washington, DC 20535, telephine number 202–324–5350.

Dated: November 1, 1988

William S. Sessions,

Director.

[FR Doc. 88–26008 Filed 11–9–88; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Employment of Homeworkers in Certain Industries; Records To Be Kept by Employers

AGENCY: Office of the Secretary, Labor.

ACTION: Submission of recordkeeping/reporting requirements for clearance under the Paperwork Reduction Act.

SUMMARY: The Wage and Hour Division, ESA, Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35; 5 CFR Part 1320 (53 FR 16618 to 16632, May 10, 1988)), is submitting the recordkeeping requirements of the final rule amending 29 CFR Parts 530 and 516, published in the **Federal Register** on November 10, 1988, to the Office of Management and Budget for that Agency's approval.

DATE: The Wage and Hour Division has requested an expedited review of this submission under the Paperwork Reduction Act, to be completed within 30 days of the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding the recordkeeping/reporting requirements for these rules should be directed to Theresa O'Malley, Acting Departmental Clearance Officer, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210 (telephone (202) 523–6331). Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 3208, Washington, DC (telephone (202) 395–6880).

Any member of the public who wants to comment on the information collection clearance package which has been submitted to OMB should advise Ms. O'Malley of this intent at the earliest possible date.

SUPPLEMENTARY INFORMATION: On November 10, 1988, the Wage and Hour

Division published a final rule on employment of homeworkers in certain industries, 29 CFR Part 530, and an accompanying final rule amending the recordkeeping provisions in 29 CFR Part 516. The following submission for approval of the recordkeeping/reporting requirements of those rules has been submitted to OMB with a request for expedited approval under the Paperwork Reduction Act.

Signed at Washington, DC, this 7th day of November 1988.

Theresa O'Malley,

Acting Departmental Clearance Officer.

BILLING CODE 4510-27-M

Standard Form 83
(Rev. September 1983)

Request for OMB Review

Important

Read instructions before completing form. Do not use the same SF 83 to request both an Executive Order 12291 review and approval under the Paperwork Reduction Act.

Answer all questions in Part I. If this request is for review under E.O. 12291, complete Part II and sign the regulatory certification. If this request is for approval under the Paperwork Reduction Act and 5 CFR 1320, skip Part II, complete Part III and sign the paperwork certification.

Send three copies of this form, the material to be reviewed, and for paperwork—three copies of the supporting statement, to:

Office of Information and Regulatory Affairs
Office of Management and Budget
Attention: Docket Library, Room 3201
Washington, DC 20503

PART I.—Complete This Part for All Requests.

1. Department/agency and Bureau/office originating request

U. S. Department of Labor
Employment Standards Administration
Wage and Hour Division

2. Agency code: 1 2 1 5

3. Name of person who can best answer questions regarding this request: William G. Blackburn

Telephone number: (202) 523-8412

4. Title of information collection or rulemaking

29 CFR Parts 516 and 530 - Employment of Homeworkers in Certain Industries; Records to be Kept by Employers

5. Legal authority for information collection or rule *(cite United States Code, Public Law, or Executive Order)*

29 USC 211(d), or

6. Affected public *(check all that apply)*

1 [X] Individuals or households
2 [ ] State or local governments
3 [ ] Farms
4 [X] Businesses or other for-profit
5 [ ] Federal agencies or employees
6 [X] Non-profit institutions
7 [X] Small businesses or organizations

PART II.—Complete This Part Only if the Request is for OMB Review Under Executive Order 12291

7. Regulation Identifier Number (RIN)

___ ___ ___ ___ — ___ ___ ___ ___. or. None assigned [ ]

8. Type of submission *(check one in each category)*

Classification
1 [ ] Major
2 [ ] Nonmajor

Stage of development
1 [ ] Proposed or draft
2 [ ] Final or interim final, with prior proposal
3 [ ] Final or interim final, without prior proposal

Type of review requested
1 [ ] Standard
2 [ ] Pending
3 [ ] Emergency
4 [ ] Statutory or judicial deadline

9. CFR section affected

_____ CFR _____

10. Does this regulation contain reporting or recordkeeping requirements that require OMB approval under the Paperwork Reduction Act and 5 CFR 1320? . . . [ ] Yes [ ] No

11. If a major rule, is there a regulatory impact analysis attached? . . . 1 [ ] Yes 2 [ ] No
If "No," did OMB waive the analysis? . . . 3 [ ] Yes 4 [ ] No

Certification for Regulatory Submissions

In submitting this request for OMB review, the authorized regulatory contact and the program official certify that the requirements of E.O. 12291 and any applicable policy directives have been complied with.

Signature of program official — Date

Signature of authorized regulatory contact — Date

12. *(OMB use only)*

PART III.—Complete This Part Only if the Request is for Approval of a Collection of Information Under the Paperwork Reduction Act and 5 CFR 1320.

13. Abstract—Describe needs, uses and affected public in 50 words or less 'Compensation; manufacturing industry; records'
These reporting and recordkeeping requirements for employers and employees performing homework in the restricted industries under the certification program are necessary to insure employees receive the minimum wage and overtime pay mandated by the Fair Labor Standards Act.

14. Type of information collection *(check only one)*

Information collections not contained in rules

1 [X] Regular submission
2 [ ] Emergency submission *(certification attached)*

Information collections contained in rules

3 [ ] Existing regulation *(no change proposed)*
4 [ ] Notice of proposed rulemaking (NPRM)
5 [X] Final, NPRM was previously published
6 Final or interim final without prior NPRM
A [ ] Regular submission
B [ ] Emergency submission *(certification attached)*

7. Enter date of expected or actual Federal Register publication at this stage of rulemaking *(month, day, year)*: _____

15. Type of review requested *(check only one)*

1 [ ] New collection
2 [X] Revision of a currently approved collection
3 [ ] Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
4 [ ] Reinstatement of a previously approved collection for which approval has expired
5 [ ] Existing collection in use without an OMB control number

16. Agency report form number(s) *(include standard/optional form number(s))*
WH-75, WH-46

17. Annual reporting or disclosure burden

1 Number of respondents	See item 13 of justification
2 Number of responses per respondent	
3 Total annual responses *(line 1 times line 2)*	
4 Hours per response	
5 Total hours *(line 3 times line 4)*	

18. Annual recordkeeping burden

1 Number of recordkeepers	See item 13 of justification
2 Annual hours per recordkeeper	
3 Total recordkeeping hours *(line 1 times line 2)*	
4 Recordkeeping retention period	years

19. Total annual burden

1 Requested *(line 17-5 plus line 18-3)*	38,883
2 In current OMB inventory	22,500
3 Difference *(line 1 less line 2)*	16,383
Explanation of difference	
4 Program change	+16,001
5 Adjustment	+ 382

20. Current *(most recent)* OMB control number or comment number
1215-0013

21. Requested expiration date
3/31/91

22. Purpose of information collection *(check as many as apply)*

1 [ ] Application for benefits
2 [ ] Program evaluation
3 [ ] General purpose statistics
4 [X] Regulatory or compliance
5 [ ] Program planning or management
6 [ ] Research
7 [ ] Audit

23. Frequency of recordkeeping or reporting *(check all that apply)*

[X] Recordkeeping
Reporting
2 [X] On occasion
3 [ ] Weekly
4 [ ] Monthly
5 [ ] Quarterly
6 [ ] Semi-annually
7 [ ] Annually
8 [X] Biennially
9 [ ] Other *(describe)*: _____

24. Respondents' obligation to comply *(check the strongest obligation that applies)*

1 [ ] Voluntary
2 [ ] Required to obtain or retain a benefit
3 [X] Mandatory

25. Are the respondents primarily educational agencies or institutions or is the primary purpose of the collection related to Federal education programs? [ ] Yes [X] No

26. Does the agency use sampling to select respondents or does the agency recommend or prescribe the use of sampling or statistical analysis by respondents? [ ] Yes [X] No

27. Regulatory authority for the information collection
29 CFR 530.102, 103, 202(a) & 29 CFR 516.31(c); or, Other *(specify)*: _____

Paperwork Certification

In submitting this request for OMB approval, the agency head, the senior official or an authorized representative, certifies that the requirements of 5 CFR 1320, the Privacy Act, statistical standards or directives, and any other applicable information policy directives have been complied with

Signature of program official _____ Date 11/1/-1

Signature of agency head, the senior official or an authorized representative _____ Date 11/7/88

U.S. GOVERNMENT PRINTING OFFICE : 1984 O - 433-469

Supporting Statement

1. Section 11(d) of the Fair Labor Standards Act (FLSA) authorizes the Secretary of Labor to regulate, restrict, or prohibit industrial homework as necessary to prevent evasion of the minimum wage requirements of the Act. In the 1940's, the Department banned homework in seven industries (knitted outerwear, women's apparel, jewelry manufacturing, gloves and mittens, button and buckle manufacturing, handkerchief manufacturing, and embroideries). Exceptions to the ban have been permitted for individuals in certain hardship cases. Homework has always been permitted under the FLSA in all other industries provided the employer maintains homeworker handbooks for such employees.

In 1980, the Department initiated regulatory efforts to reduce the restrictions on homework. These efforts resulted in extensive rulemaking and litigation. On November 5, 1984, the Department issued a final rule lifting the total ban on homework in the knitted outerwear industry. This rule was in response to the decision in *ILGWU* v. *Donovan*, 722 F.2d 795 (DC Cir. 1983) which vacated an earlier rescission of the ban. Under this rule, employers of homeworkers in the knitted outerwear industry must first obtain a certificate from the Department authorizing such employment (OMB No. 1215–0159).

In August 1986, the Department published a further proposal which would have expanded the certification system in the knitted outerwear industry to the remaining restricted industries.

In March 1988, the Department published a new proposal which modified the certification system proposed in August 1986 but retained the ban on homework in women's apparel (pending further review) and those jewelry manufacturing operations in the home that may be hazardous.

This final rule adopts the information collections in the March 1988 proposal:

A. Applications to Employ Homeworkers

In order to be permitted to employ homeworkers in the industries under the certification program, an employer must first apply to the Wage and Hour Division of the Department of Labor for a certificate. The employer's request must contain the information required by § 530.102 of Regulations, 29 CFR Part 530, including the names and addresses and languages spoken (other than English) by the homeworkers, and also the written assurances set forth in § 530.103 of the rule.

B. Piece Rate Measurements

Section 530.202 requires that employers in the restricted industries under the certification program who pay homeworkers based on piece rates have documentation of the work measurements used to establish such piece rates and the circumstances under which such measurements were conducted and that such documentation be retained for 3 years and be made available on request to the Wage and Hour Division.

C. Homeworker Handbooks

Section 516.31(c) of Regulations, 29 CFR Part 516, sets forth the requirement that employers obtain from the Wage and Hour Division a separate homeworker handbook for each homeworker employed. The employer must insure that each homeworker makes the proper entries in the handbook concerning their hours of work. These requirements apply to all employers of homeworkers subject to FLSA. Employers are required to retain the completed handbooks for two years in order to provide essential information for FLSA enforcement by the Wage and Hour Division.

2. A. Applications to Employ Homeworkers

The application process provides Wage-Hour with a means of identifying employers of homeworkers, and the individual homeworkers, in the restricted industries who may not be identified otherwise. Further, it provides an early opportunity for Wage-Hour to contact such employers and assist them in complying with the requirements of the certification program.

B. Piece Rate Measurements

The requirement that employers record and retain documentation of the method used to establish piece rates is necessary so that Wage and Hour can verify that rates were properly determined and will result in wage payments to homeworkers at a rate at least equal to the FLSA minimum wage for each hour worked. Failure to require this documentation would impair Wage-Hour's ability to assure FLSA compliance.

C. Homeworker Handbooks

To ensure the employer fulfills its obligation to obtain and record accurate hours worked information whenever homework is distributed to and collected from employees, homeworkers should record the information or keep hours worked information as the work is performed.

Individual homeworkers retain their own handbooks until completely filled-in, and then return them to the employer. The information is used by the Wage and Hour Division in conducting homeworker employment investigations to insure FLSA compliance. Failure to collect the information would make it extremely difficult to ensure that homeworkers are being paid properly and would severely impede the Division's investigation activities.

3. There are no sources of improved technology which can be used to reduce these recordkeeping and reporting burdens.

4. There is no duplication of existing information collections.

5. No similar information is available from any other source.

6. The information required to be reported and collected is the minimum necessary to assure FLSA compliance with respect to homework. Homeworker handbooks (WH–75) are provided free of charge to employers. The recently revised WH–75 contains clearer instructions and modified time sheets designed to simplify completion of the forms and accurate recording of daily hours worked. Space for recording of piece rates, wages paid and dates of payment has been removed.

7. It would not be possible to assure compliance with the FLSA in homework employment with less frequent information collections.

8. This information collection is conducted in a manner which is consistent with the guidelines in 5 CFR 1320.6.

9. As noted in 1. above, the Department, in March 1988, published the proposed certification requirements for notice and comment. Comments received regarding the information collections are addressed in the preamble to the final rule.

10. There are no assurances of confidentiality.

11. There are no questions of a sensitive nature.

12. A. Applications to Employ Homeworkers

The processing of the application involves the services of a GS–11, step 4 analyst (annual salary—$30,488) and requires an estimated average of thirty minutes to analyze the form for approval or denial. There are no reliable data concerning the number of homeworkers or the number of employers operating in the restricted industries. On the basis of available estimates, adjusted for the estimated number of homeworkers in States where homework is restricted, it

is estimated that approximately 1,000 employers of homeworkers may be subject to the certification program. Since applications are approved for a two-year period, it is estimated that 500 applications will be received annually. 500 app. x 30 min. x $30,488/2087 = $3,652.13

B. Piece Rate Measurements

There are no Federal costs associated with this requirement.

C. Homeworker Handbooks

Based on enforcement experience, there are an average of 11 homeworkers per employer. Taking into account the rough estimates of the number of employers who may be subject to the certification program, together with the number of employers currently requesting handbooks in the unrestricted industries, it is estimated that 17,500 homeworkers will complete handbooks. Previous experience indicates that an average of four handbooks will be used annually by each homeworker. Accordingly, 70,000 handbooks will be printed and mailed annually (17,500 homeworkers x 4). Therefore, the annualized Federal costs are as follows:

Labor	$3,652
Printing 70,000 handbooks	3,269
Postage (1,600 mailings (a) $.75 each)	1,200
Total annual Federal Cost for handbooks	4,467
Total Federal Costs	12,590

13. Reporting Requirements

A. Applications to Employ Homeworkers

It is estimated that each employer of homeworkers in the restricted industries will spend approximately one-half hour preparing an application to employ homeworkers. This result in an annual burden of 250 hours (500 applications x ½ hour).

B. Homeworker Handbooks

As indicated above, it is estimated that 17,500 homeworkers will record the information in the handbooks which they then will turn over to their employer (see item 12). An average burden of 30 minutes per handbook is estimated, with each homeworker completing four annually. Total annual burden is 35,000 hours (70,000 handbooks x ½ hour).

Recordkeeping Requirements

A. Piece Rate Measurement

It is estimated that each employer in the restricted industries subject to the certification program will complete documentation on three piece rate work measurements annually and that each such documentation will take approximately one hour. Total annual burden will be 3,000 hours (1,000 employers (see item 12) x 3 hours). Further the filing of the documentation of each piece rate work measurement will take approximately one minute, for an additional total annual burden of 50 hours (3,000 piece rate work measurements x one minute).

B. Homeworker Handbooks

It is estimated that it takes each employer an average of ½ minute to file each completed homeworker handbook for an annual burden of 583 hours (70,000 handbooks x ½ minute).

Total Annual Reporting and Recordkeeping Burden—38,883 Hours.

14. The increases in the burden result from the final rule lifting the prior restrictions on employment of homeworkers except in women's apparel and hazardous jewelry manufacturing. These rules will increase the use of homeworker handbooks and applications to employ homeworkers (and require the reporting of more information than the prior application) and impose new burden for piece rate work measurements.

In the last clearance, reporting burden per handbook for 45,000 handbooks was estimated at 15 minutes for recordkeeping and 15 minutes for reporting. We have reexamined this burden and concluded that the 15 minutes formerly counted as recordkeeping is, in fact, reporting burden. Therefore, a more accurate estimate of 30 minutes per handbook for reporting, and ½ minute for recordkeeping in being submitted, for this clearance request. Although the revision of the handbook is intended to simplify completion, there is no measurable savings in burden. Because of the new regulation explained above, the number of handbooks will increase to 70,000. Thus:

45,000 handbooks x ½ minute for recordkeeping correction = +375 hours adjustment;

25,000 additional handbooks (70,000 − 45,000) x ½ min. recordkeeping = +208 hours program change; and

25,000 additional handbooks x 30 minutes reporting = +12,500 hours program change.

The certifications which were formerly cleared under 1215–0159 are now being merged into this clearance. The certification had a total of 7 hours in the last clearance. As a result of the new regulations, the total number of hours for certification will lincrease to 250. This causes an adjustment of +7 hours and a program change of +243 hours.

The new burden imposed for piece rate work measurement by the new regulations causes a program change of +3,050 hours.

15. This information is not published.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, the recordkeeping provisions that are included in these rules, including revisions to the homeworker handbooks, have been submitted to the Office of Management and Budget for approval. The Wage and Hour Division has requested an expedited review of its submission under the Act, to be completed within 30 days of the date of publication in the **Federal Register**. A copy of the submission is being separately published in the **Federal Register** for the convenience of the public.

Public reporting burden for this collection of information, including the time for reviewing instructions, searching data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, is estimated to average, per response: (1) Homework application (§ 530.102 and .103)—½ hour; (2) piecework measurement documentation (§ 530.202)—1 hour per measurement plus 1 minute for filing; (3) homeworker handbook (§ 516.31(c))—½ hour completion time by the homeworker plus ½ minute for filing by the employer. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Washington, DC 20503.

FLSA section 11(d)

(d) The Secretary is authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this Act, and all existing regulations or orders of the Administrator relating to industrial homework are hereby continued in full force and effect.

29 CFR Part 530

Section 530.102 Requests for employer certificates.

The initial request for certification or renewal application shall be signed by the employer and shall contain the name of the firm, its mailing address, the physical location of the firm's principal place of business and a description of the business operations and items produced. In addition, the initial or renewal application shall contain the names, addresses, and languages (if other than English) spoken by the homeworkers that are currently employed (if any) or expected to be employed. The employer shall also provide the Administrator, within thirty (30) days, a notice of each change of address of the principal place of business. The notification shall be in writing and addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

Section 530.103 Employer assurances.

In order to be granted a certificate authorizing the employment of industrial homeworkers, the employer must provide written assurances concerning the employment of homeworkers subject to section 11(d) of the Fair Labor Standards Act to the effect that:

(1) All homeworkers shall be paid in accordance with the monetary provisions of the Act.

(2) All homeworkers shall be employed in compliance with the child labor provisions contained in section 12 of the Act and regulations and orders issued pursuant to section 12. All homeworkers will be instructed not to permit minors to work in violation of such provisions.

(3) Records of hours worked and wages paid shall be maintained in accordance with section 11 of the Act and Part 516 of this chapter.

(4) All homeworkers shall complete homeworker handbooks in accordance with § 516.31 of Part 516.

(5) All homeworkers will be instructed to accurately record all hours worked, piece work information, and business-related expenses in the handbooks.

(6) All records shall be made avialable for inspection and transcription by the Administrator or a duly authorized and designated representative, or transcription by the employer upon written request.

(7) Piece rates paid to homeworkers shall be established using stop watch time studies or other work measurement methods.

(8) All homeworkers shall be encouraged to cooperate with the Department in any investigation that may be made.

(9) With respect to jewelry manufacturing, no operations other than the stringing of beads and other jewelry and the carding and packaging of jewelry will be performed by homeworkers.

29 CFR Part 530

Section 530.202 Piece rates—work measurement.

(a) No certificate will be issued pursuant to § 530.101 of subpart B to an employer who pays homeworkers based on piece rates unless the employer establishes the piece rates for the different types of items produced using stop watch time studies or other work measurement methods. Documentation of the work measurements used to establish the piece rates, and the circumstances under which such measurements were conducted shall be retained for three years and made available on request to the Wage and Hour Division.

29 CFR 516.31(c)

(c) *Homeworker handbook.* In addition to the information and data required in paragraph (b) of this section, a separate handbook (to be obtained by the employer from the Wage and Hour Division and supplied by such employer to each worker) shall be kept for each homeworker. The employer is required to insure that the hours worked and other information required therein is entered by the homeworker when work is performed and/or business-related expenses are incurred. This handbook must remain in the possession of the homeworker except at the end of each pay period when it is to be submitted to the employer for transcription of the hours worked and other required information and for computation of wages to be paid. The handbooks shall include a provision for written verification by the employer attesting that the homeworker was instructed to accurately record all of the required information regarding such homeworker's employment, and that, to the best of his or her knowledge and belief, the information was recorded accurately. Once no space remains in the handbook for additional entries, or upon termination of the homeworker's employment, the handbook shall be returned to the employer. The employer shall then preserve this handbook for at least two years and make it available for inspection by the Wage and Hour Division on request.

BILLING CODE 4510-27-M

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division

APPLICATION FOR CERTIFICATE TO EMPLOY HOMEWORKERS

DRAFT

I _____ (name of employer) at _____ (address of establishment, including mailing address), _____ (county), _____ (state & zip code), hereby make application to employ homeworkers in the _____ (e.g., jewelry, gloves & mittens, etc.) industry for the manufacture of _____ (item(s) to be produced by homeworkers). Attached is a list of the names, addresses, and languages spoken (if other than English) of homeworkers that I intend to employ under this certificate.

I hereby assure that:

- All homeworkers will be paid in accordance with the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA).
- No minor under 16 will be employed to perform homework.
- Records will be maintained in accordance with section 11(c) of the FLSA and Regulations, 29 CFR Part 516.
- All homeworkers will complete a homeworker handbook in accordance with Regulations, Part 516.31 and will be instructed to accurately record all hours worked, piece work information and business-related expenses in the handbook.
- All records will be made available for inspection and transcription by the Administrator or a duly authorized and designated representative, or transcription by the employer upon written request.
- Piece rates paid to homeworkers will be calculated using stop watch time studies or other work measurement methods.
- All homeworkers will be encouraged to cooperate with the Department of Labor in any investigation that may be made by the Administrator or a duly authorized and designated representative.
- Where homeworkers will be employed in jewelry manufacturing, their work will be limited exclusively to the stringing of beads and other jewelry and the carding and packaging of jewelry.*

I understand that violations of the FLSA, of FLSA regulations, or of these assurances, may result in the assessment of civil money penalties or revocation of my certificate.

_____ Date

_____ Signature

_____ Title

DRAFT

_____ Firm

Form WH-46
Rev. Nov. 1988

Notification of address change of the employer must be provided in writing within 30 days to the Administrator, Wage and Hour Division, Employment Standards Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Approval of this application does not relieve an employer from compliance with standards applicable to homeworkers under State law or local ordinance.

* As set forth in Regulations, 29 CFR 530.101, the terms, "carding and packaging of jewelry" include the attaching of jewelry to cards, boxing and wrapping, and the use of common household glues available to the general public, but do not include potentially hazardous operations such as the use of industrial glues, epoxies, soldering irons, or heating elements.

FT

DRAFT

Public Burden Statement

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information Management, U.S. Department of Labor, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Name of Homeworker	Address (street, city, state)	Language Spoken (if other than English)

DRAFT

DRAFT

Homeworker Handbook

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

DRAFT

This handbook is the property of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor, and must be returned upon request. This is a Federal handbook only and does not authorize the distribution of homework by any employer or by any contractor in violation of any applicable State law or regulation.

1. A. Homeworker's name: (last name) (first name)

B. Address: (number, street, city, State, Zip code)

2. A. Firm's name:

B. Address: (number, street, city, State, ZIP code)

3. Homework distributed from: (number, street, city, State, Zip code)

4. Industry:	5. Day and time workweek begins	6. Required minimum wage

7. Date issued to homeworker (month, day, year):

8. Homeworker's certificate number (if applicable) (See Regulations 29 CFR 530.4)

DRAFT

Form WH-75 (Rev. July 1988)

DRAFT

NOTICE TO EMPLOYER AND HOMEWORKER

1. Under the Fair Labor Standards Act, homeworkers are entitled to the same protections of the law as other employees. Any violations committed with respect to homeworkers are subject to the penalties set forth in the law and in Regulations, 29 CFR Parts 530 and 579.

2. Homeworkers must be paid at a rate of not less than the minimum wage provided in the Act for all hours worked unless a lower rate is permitted under a special certificate for an individual homeworker in accordance with Regulations, 29 CFR Part 525.

3. Homeworkers must be paid overtime pay at a rate of not less than one and one-half times their regular rates of pay for all hours of work after 40 in a workweek.

4. Deductions from wages for damaged goods, cost of tools or materials (yarn, thread, packing materials, etc.), cost of machines or other equipment, etc., are not permitted and workers may not themselves pay such costs without reimbursement where this reduces the wages received to less than the minimum wage or cuts into required overtime pay.

5. No one under 16 years of age is permitted to perform industrial homework as defined in Regulations, 29 CFR Part 530.

6. The work record entered in this handbook must be only for the employee named on the front page.

7. Records of hours worked and earnings of homeworkers must be kept by the employer in accordance with section 516.31 of Regulations, 29 CFR Part 516.

8. No homework may be performed on Government manufacturing or supply contracts subject to the Walsh-Healey Public Contracts Act.

DRAFT

DRAFT

INSTRUCTIONS

(Enter in ink all information required)

Each page of this handbook is a time sheet to be used by the homeworker to accurately record all the hours worked in one workweek. A workweek is a fixed period of 7 consecutive calendar days - 168 hours. The employer designates the time of the day and day of the week on which the workweek begins.

In many instances, a homeworker does not work continuously, so space has been provided for several daily entries of starting and stopping times, if needed. It is important that the homeworker accurately record each time he or she starts and stops working (for example, "Start" - 8:15 a.m.; "Stop" - 10:45 a.m.). This time should be recorded immediately when he or she starts and stops working, rather than at the end of the day or workweek. However, short breaks or rest periods of less than 20 minutes need not be recorded.

Activities which must be considered hours worked (and paid for each pay period) include all time spent in:

(a) setting up and putting away machines and materials,
(b) adjusting, threading, cleaning, oiling, or repairing machines,
(c) actual production of the articles,
(d) inspection of the articles,
(e) repairing or re-work,
(f) sorting and packing or unpacking materials,
(g) training to produce new designs or new items,
(h) rest periods of short duration (up to 20 minutes),
(i) traveling to and from the distribution point to pick up and/or deliver the homeworker's own work or the work of other homeworkers (where the travel includes time spent in personal activities, such as shopping or going to the post office, this personal travel time need not be included in counting the hours worked),
(j) waiting at the distribution point to pick up work or deliver completed work and have it inspected,
(k) any other activity required to produce the article, or otherwise required by the employer to be performed.

In the space indicated, the homeworker is to record the type(s) of article(s) worked on each day, the number of pieces made, and any other activities (travel, packing, etc.). The homeworker also is to record all business-related expenses incurred during the workweek, such as cost of thread and tools, postage, etc., in the space provided at the bottom of the time sheet.

Except for the time necessary for the calculation of hours worked at the end of the pay period by the employer, the handbook shall remain in the possession of the homeworker until filled in (that is, no space is left for entries) or until the homeworker's employment is terminated, at which time the handbook shall be returned to the employer as required by the regulations. The employer then signs and dates the statement on the final page and keeps and preserves the handbook for at least 2 years.

For further information or additional handbooks, contact the nearest office of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

DRAFT

Workweek Ending Date:

Article (hat, glove, etc.)
Style or lot number and number of pieces of each
Other activities (travel, packing, etc.)

	Start	Stop	Hours
Day 1			
Day 2			
Day 3			
Day 4			
Day 5			
Day 6			
Day 7			
	DRAFT		Total Hours

DRAFT

NOTE: This homeworker handbook consists of 20 pages, 15 of which are identical to this page. It is used by the homeworker primarily to record hours worked. In order to reduce the cost of printing, only one page has been reproduced.

Expenses (description/amount)

Workweek Ending Date:

	Start	Stop	Hours	Article (hat, glove, etc.) Style or lot number and number of pieces of each Other activities (travel, packing, etc.)
Day 1				DRAFT
Day 2				
Day 3				
Day 4				
Day 5				
Day 6				
Day 7				
	DRAFT		Total Hours	Expenses (description/amount)

I attest that the homeworker to whom this handbook was issued was instructed to accurately record all hours worked, piece work information, and business-related expenses. I also attest that, to the best of my knowledge and belief, the information was recorded accurately.

Date

Signature of Employer

Public reporting burden for this collection of information is estimated to average .50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information Management, U.S. Department of Labor, Rm N1301, 200 Constitution Avenue NW, Washington, D.C. 20210; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

[FR Doc. 88-26192 Filed 11-9-88; 8:45 am]
BILLING CODE 4510-27-C

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Appointment of Members

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

ACTION: Notice of appointment of members.

Notice is hereby given that appointments have been made to fill fifteen (15) vacancies on the Advisory Committee on Construction Safety and Health. The vacancies were created by the expiration of the terms of the fifteen (15) members on June 30, 1988. The new membership of the Committee and the categories represented are as follows:

Employee

Mr. Joe A. Adam, Director, Department of Safety and Health, United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry (reappointed).
Mr. Robert E.P. Cooney, retired union official (reappointed).
Mr. Jim E. Lapping, Director, Safety and Health, Building and Construction Trades Department, AFL–CIO (reappointed).
Mr. Joseph L. Durst, Director, Occupational Safety and Health, United Brotherhood of Carpenters and Joiners of America (reappointed).
Mr. George E. Smith, Director, Safety Department, International Brotherhood of Electrical Workers (reappointed).

Employer

Mr. Larry L. Swanda, Vice President, Jensen Construction Company (reappointed).
Mr. Stephen J. Cloutier, Safety and Loss Control Manager, Metric Construction, Inc. (new appointment).
Mr. Ronald R. Amerson, Coordinator of Construction Safety, Georgia Power Company (new appointment).
Mr. Rick Palmer, Vice President and Part Owner, Palmer Painting Company (new appointment).
Ms. Delaine L. Nelson, Administrative Vice President, Mueller Resource Management, Inc. (new appointment).

State

Mr. Allen Meier, Commissioner of Labor, State of Iowa (reappointed).
Mr. Edgar L. McGowan, Commissioner of Labor, State of South Carolina (reappointed).

Public

Major General Wesley E. Peel (U.S. Army Retired), Vice Chancellor for Facilities Planning and Construction, Texas A and M University System (reappointed to serve as Chairman).
Mr. Delmar E. Tally, Executive Director, Austin Chapter, Associated General Constructors of America, Inc. (new appointment).

Federal

Mr. Melvin L. Myers, Deputy Assistant Director, National Institute for Occupational Safety and Health (NIOSH) (new appointment).

Each of these members has been appointed for a term which will end on June 30, 1990.

The Advisory Committee on Construction Safety and Health was established under section 107 of the Contract Work Hours and Safety Standards Act and section 7(b) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor on matters pertaining to construction safety and health.

FOR ADDITIOINAL INFORMATION CONTACT: Tom Hall, Division of Consumer Affairs, Room N–3647, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 523–8615.

Signed at Washington, DC, this 7th day of November, 1988.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 88–26039 Filed 11–9–88; 8:45 am]

BILLING CODE 4510–26–M

Advisory Committee on Construction Safety and Health; Full Committee Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standard Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on November 30 and December 1, 1988 in Room C–2318 of the Francis Perkins Building, Department of Labor, Washington, DC. The meeting is open to the public and will begin at 9:00 am.

The agenda for this meeting includes reports from the Committee's work groups on hazard communication and competent persons training, a review of the proposed standard on cadmium, a presentation on the new field operations manual, and other occupational safety and health matters of concern to the Committee.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Any one wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation.

For additional information contact: Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, Room–N3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone 202–523–8615.

An official record of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, DC this 7th day of November, 1988.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 88–26040 Filed 11–9–88; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 88–100; Exemption Application No. D–7483 et al.]

Grant of Individual Exemptions; Emergency Medical Associates, Inc., et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have

represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, 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 issue exemptions of the type proposed to the Secretary of Labor.

STATUTORY FINDINGS

In accordance with section 406(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the Plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the Plans.

Emergency Medical Associates, Inc. Amended Multiple Employer Profit Sharing Plan and Emergency Medical Associates, Inc. Multiple Employer Money Purchase Plan (the Plans) Located in Columbus, Ohio

[Prohibited Transaction Exemption 88–100; Exemption Application Nos. D–7483 and D–7485]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The extension of credit (the Loans) by the individual participant accounts (the Accounts) of T. William Evans, M.D. (Dr. Evans) in the Plans to Emergency Medical Associates, Inc., the sponsor of the Plans; and (2) Dr. Evans' personal guarantee of the Loans; provided that all terms of the Loans are at least as favorable to the Accounts as those which the Accounts could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 16, 1988 at 53 FR 36133.

Temporary Nature of Exemption: The making of loans under this exemption is limited to the two-year period commencing on the date on which this Final Grant is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Eastwood Printing and Publishing Company Profit Sharing Plan and Trust (the Plan) Located in Denver, Colorado

[Prohibited Transaction Exemption 88–101; Exemption Application No. D–7506]

Exemption

The restrictions of section 406(a), (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale by the Plan to Siegel Investment Company, a limited partnership and a party in interest with respect to the Plan, of a certain parcel of real property located in Denver, Colorado; provided that the terms and conditions of the transaction are at least as favorable to those obtainable by the Plan in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 30, 1988 at 53 FR 33201.

FOR FURTHER INFORMATION CONTACT: B.S. Scott of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Individual Retirement Account of Robert E. Keefer (IRA) Located in Hawthorne, California

[Prohibited Transaction Exemption 88–102; Exemption Application No. D–7525]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of a parcel of real property (the Property) to the IRA by the Robert and Suzette Keefer Family Trust, nor to the subsequent lease of the Property by the IRA to Hawthorne Mazda, a company which is wholly owned by Mr. Keefer, provided that the terms of the transactions are not less favorable to the IRA than those obtainable in arm's-length transactions with unrelated parties.[1]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 16, 1988 at 53 FR 36135.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Tarrant Services, Inc. Profit Sharing Plan and Trust (the Plan) Located in Fort Worth, TX

[Prohibited Transaction Exemption 88–103; Exemption Application No. D–7628]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of its general partnership interest (the Interest) in Galaxy Development Joint Venture II (the Partnership) to Tarrant Services, Inc. (the Employer), the sponsor of the Plan, provided that the sales price is not less than the *greater* of: (1) the fair market value of the Plan's interest in the Partnership on the date of the sale, or (2) the costs to the Plan associated with the acquisition and holding of the Interest; and provided further that the Plan, the Partnership, and the Employer execute appropraite documents that reflect the substitution of the Employer as a partner in the Partnership and acknowledge that the Plan has been absolved and released of any further and continuing obligations in connection with the partnership.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 16, 1988 at 53 FR 36135.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. LeBlanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

[1] Pursuant to the provisions contained in 29 CFR 2501.3–2(d), the IRA is not subject to Title I of the Act. However, the IRA is subject to Title II of the Act pursuant to section 4975 of the Code.

Health Care Administration Company Profit Sharing Plan and Trust (the Plan) Located in San Antonio, Texas

[Prohibited Transaction Exemption 88–104; Exemption Application No. D–7648]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of certain certificates of deposit (the CDs) and certain oil well interests (the Oil Well Interests) to Health Care Administration Company, the Plan sponsor, provided that the price paid be no less than the greater of the fair market value of the CDs and the Oil Well Interests as of the date of sale or the original prices paid for the CDs and Oil Well Interests and all expenses to the Plan in connection with its acquisition and holding of the CDs and Oil Well Interests to the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 16, 1988 at 53 FR 36136.

FOR FURTHER INFORMATION CONTACT: Joseph L Roberts III of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Plan of First Wachovia Diversified Funds for Retirement Trusts Located in Winston-Salem, North Carolina

[Prohibited Transaction Exemption 88–105; Exemption Application No. D–7674]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the merger of the First Wachovia Income Fund, trusteed by First National Bank of Atlanta, into the First Wachovia Fixed Income Fund, trusteed by Wachovia Bank and Trust Company, N.A., provided that upon completion of the merger the aggregate fair market value of the interest of each employee benefit plan participating (Participating Plan) in the two funds (collectively the Funds) equals the aggregate fair market value of each such Participating Plan's interest in the Funds immediately preceding the merger.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 16, 1988 at 53 FR 36137.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fidicuary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of November, 1988.

Robert J. Doyle,

Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88–26073 Filed 11–9–88; 8:45 am]

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[Application No. D–7386] et al.

Proposed Exemptions; Truman Arnold Co. Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). 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 issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department..

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Truman Arnold Company

Profit Sharing Plan & Trust (the Plan)

Located in Texarkana, Texas

[Application No. D-7386]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the past contribution of two buildings to the Plan and leaseback of the buildings to Truman Arnold Companies (the Employer), nor to the agreement by the Employer and Mr. Truman Arnold (Mr. Arnold) to indemnify the Plan against any decline in the market value of the buildings, provided that the terms of the transactions were at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

EFFECTIVE DATE: If granted, the proposed exemption will be effective June 1, 1988.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 214 participants and net assets of 5,029,632 as of September 30, 1987. The trustee of the Plan is State First National Bank of Texarkana, Texas (the Trustee). The Employer owns and operates an interstate chain of convenience stores and distribution centers for petroleum products. Stock of the Employer is wholly owned by Mr. Arnold.

2. The Plan acquired land and buildings on South Robison Road in Texarkana, Texas which the Plan leased to the Employer prior to July 1, 1974, for use as its home office site (Parcel 1). In 1979, the Exployer expanded its home office operations by purchasing a parcel of property contiguous with Parcel 1 and constructing a building on the property (Parcel 2). Pursuant to an exemption application filed by the Employer, the Department granted an exemption permitting the Employer to contribute Parcel 2 to the Plan and then lease Parcel 2 back to the Employer (See Prohibited Transaction Exemption (PTE) 81-56, 46 FR 36273, July 14, 1981). The Employer subsequently submitted and was granted an exemption by the Department permitting the continuation of the lease on Parcel 1 beyond the June 30, 1984 termination of the transitional provisions contained in the Act (See PTE 85-19, 50 FR 3045, January 23, 1985).

3. The Employer, pursuant to the terms of the lease on Parcel 1, and with the approval of the Plan's independent fiduciary (see representation 6) constructed two additions to the original office building located on Parcel 1, at a cost of $556,000. The actual improvements consist of additional connecting buildings to Parcel 1 (hereafter referred to as Buildings B and C). Building B contains approximately 2,888 square feet of space. Building C, which connects with Building B, contains approximately 4,820 square feet.

4. Buildings B & C (the Buildings) were appraised by Mr. Jim Freeman (Mr. Freeman) of P.M. Brown, Inc. Realtors in Texarkana, Texas, as having a fair market value of $587,000 as of October 1, 1987. Mr. Freeman, who has no relationship with the Employer, is a senior member of both the American Society of Appraisers and the American Association of Certified Appraisers. Mr. Freeman appraised Building B as having a fair market value of $178,000 and Building C as fair market value of $409,000.

5. On June 1, 1988, the Employer with the independent fiduciary's approval contributed the Buildings to the Plan as a portion of its annual contribution and then leased back the Buildings from the Plan (the Lease). The lease is a triple net lease having a primary term of 5 years with options for 3 additional 5 year terms which may be exercised solely in the independent fiduciary's discretion. The initial rental rate on the Buildings is $82,188 per year, which amount equals 14% of the appraised fair market value of the Buildings. The Lease provides that every third year the rental on the Buildings will be adjusted pursuant to an independent appraisal. The rental payments shall be in an amount equal to 14% of the appraised value of the Buildings, but in no event will the lease payments be less than that of the proceeding three year period. The Employer will maintain fire and casualty insurance on the Buildings with the Plan named as loss payee. Further, the Employer and Mr. Arnold, have agreed to indemnify the Plan against any decline in the market value of the Buildings below their appraised value of $567,000.

6. An independent fiduciary, the Commercial National Bank in Shreveport, Louisiana (that Bank) was appointed to both approve and monitor the contribution and lease back transactions. The Bank is not related in any way to the Employer or its officers or directors.[1] The Bank has full responsibility and exclusive authority to take all actions on behalf of the Plan with respect to the Buildings, including selling them if the Bank determines that the sale is in the best interest of the Plan and its participants and beneficiaries.

The Bank determined that the transactions were in the best interests of the Plan and its participants and beneficiaries. The Bank inspected the Buildings and found them to be of high quality comparing favorably to other projects in this region. Further, since contributions to the Plan are made at the Employer's discretion, ongoing contributions are in the best interest of Plan participants.

The Bank in reaching the conclusion that the transactions were in the Plan's best interest, reviewed the Plan's financial records and asset portfolio. The Bank found that the Trustee maintains more than 20% of the Plan's assets in liquid investments, which should be more than adequate to fulfill any contingent liabilities in the foreseeable future.

The terms of the Lease were found by the Bank to be no less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated person. The rental of $82,188 per annum will be paid to the Plan on a triple net basis. The Bank views the guaranteed 14% return on the fair market value of the Buildings as an attractive feature of the Lease. The Bank examined the past payment records of the Employer and found that it has never defaulted on any rental payments to the Plan. The Bank also examined the financial statements of the Employer and concluded that the Employer is a responsible lessee and financially healthy. In addition, Mr. Arnold and the Employer have agreed to indemnify the Plan against any decline in the market value of the Buildings below the Plan's historical cost basis. The Building are also readily adaptable to other uses should the need arise.

7. In summary, the applicant represents that the subject transactions

[1] The Employer maintains a checking account with the Bank and also a certificate of deposit. The total balance of these Employer deposits represents a negligible amount of the Bank's total deposits.

satisfied the statutory criteria under section 408(a) of the Act because:

(a) The interests of the Plan with regard to the transactions were represented by an independent fiduciary, the Bank;

(b) The initial rental rate under the Lease is 14% of the fair market value of the Buildings, which amount is not less than the current fair rental value of the Buildings;

(c) The rental rate will be adjusted every third year of the Lease based on independent appraisals of the Buildings and will equal the greater of 14% of the fair market value of the Buildings or the prior rental paid;

(d) The Plan will be indemnified agaisnt any decline in the fair market value of the Buildings;

(e) The Bank determined that the transactions were protective of and in the best interests of the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Alan E. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Grand Valley Manufacturing Company Profit Sharing Plan (the Plan) Located in Erie, Pennsylvania

[Application No. D–7437]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan of certain real property (the Property) located in Titusville, Pennsylvania and five overhead industrial cranes (the Cranes) to the Grand Valley Manufacturing Company (the Employer), the sponsor of the Plan; provided that such sale is on terms no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution pension plan with 55 participants and total net assets of $208,555 as of September 30, 1987. The Employer is a closely-held Pennsylvania corporation doing business as a specialty machine shop in Titusville, Pennsylvania. Since 1969, the Plan's trustee has been the Marine Bank (the Trustee), a Pennsylvania-chartered bank with its principal place of business in Erie, Pennsylvania. The Trustee represents that it is unrelated to the Employer and that there is no outstanding extension of credit between the Trustee and the Employer. Investment decisions on behalf of the Plan are made by an Administrative Committee comprised of officers and employees of the Employer.

2. Among the assets of the Plan is the Property, two contiguous tracts of real property located at 220 South Washington Street in Titusville, Pennsylvania. The Property consists of a 60,660 square-foot main parcel, improved with a tall one-story steel frame industrial warehouse building (the Building) currently used by the Employer for storage, and an adjacent 12,554 square-foot parking lot used by the Employer. The Property had an appraised fair market value of $125,000 as of June 8, 1988, according to Harry E. Mueller, Jr. (Mueller), an independent, professional real estate appraiser in Erie, Pennsylvania. The Property was purchased by the Plan from an unrelated party in November of 1976, when the Trustee immediately entered into a lease (the Lease) of the Property to the Employer for a term of five years. In January of 1982 the Lease was extended by the parties for an additional ten-year term. The Employer continues to occupy the Property under the Lease, which requires the Employer to pay rent in monthly installments of $1,850 and to pay all taxes, utilities and costs of maintenance and insurance. The Property houses the Cranes, which were purchased by the Plan upon acquisition of the Property, three of which are used by the Employer. The Cranes had a fair market value of $3,000 as of May 24, 1988, according to an appraisal performed by Duane D. Linhart, president of Modern Machinery Sales Company in Erie, Pennsylvania.

3. Since approximately March of 1985, a portion of the Building has been occupied by the Blue Chip Tool Company (Blue Chip) and utilized in Blue Chip's business operations under arrangements made by the Employer. Blue Chip is a party in interest with respect to the Plan because it is wholly owned by H. Richard Ewing, who is an officer, employee and shareholder of the Employer, and his spouse and children. Since June of 1986, Blue Chip has paid the Employer rental of $115 per month for its use of the Building. The Lease includes a provision which prohibits the Employer from subleasing the Property.

4. On June 12, 1987 the Philadelphia Area Office of the Department of Labor (the Area Office) notified the Trustee that certain actions of the Trustee and the Employer associated with the Property constituted violations of the Act. Specifically, the Area Office cited violations of section 406(a) and (b) of the Act in the Plan's ownership of the Property, the Lease to the Employer, Blue Chip's use of the Property and the Employer's use of the Cranes. The Area Office also cited violations of section 406(a) and (b) and section 404(a) of the Act in numerous extensions of credit by the Plan to the Employer resulting from the Trustee's failure to enforce Lease provisions requiring the Employer's payment of rent, taxes and insurance. According to the Trustee, as of March 31, 1988 the Employer had undertaken certain actions and made payments to the Plan as corrections and remedies of these violations cited by the Area Office with respect to the Property. The Trustee represents that as a result of such actions and payments, as of March 31, 1988 the Plan had been compensated and made whole for deficiencies of performance and payment under the Lease and all losses associated with the violations cited by the Area Office. In reference to this remedial activity, the Area Office stated in a letter on October 15, 1987, that it was taking no further action and that all related matters had been resolved except for the Plan's divestiture of the Property. As a final component of remedial action to bring the parties into compliance with the Act, the Trustee and the Employer propose that the Employer purchase the Property and the Cranes from the Property and are requesting an exemption to permit such purchase transaction under the terms and conditions described herein.

5. The Employer will pay the Plan cash for the Property and the Cranes in the amount of their fair market value on the sale date as determined by an independent, qualified appraiser selected by the Trustee, but in no event shall the total purchase price be less than $128,000. The Employer will bear all costs and expenses related to the sale transaction. The Trustee will oversee the transaction on behalf of the Plan to insure that it proceeds as proposed herein. The Trustee has determined that the proposed purchase price of no less than $128,000, combined with the rentals and compensation paid to the Plan by the Employer, will result in total receipts by the Plan in excess of the Plan's total investment in the Property and the Cranes.

6. The exemption proposed herein does not propose exemptive relief for the Lease of the Property by the Employer from the Plan commencing in November of 1976, the Employer's use of

the Cranes, the extensions of credit by the Plan to the Employer resulting from the Trustee's failure to enforce Lease provisions, or Blue Chip's use of the Property. Accordingly, the Employer represents that it will pay any excise taxes which are applicable under section 4975(a) of the Code by reason of such transactions within sixty days of the publication in the **Federal Register** of a notice granting the exemption proposed herein.

7. In summary, the applicants represent that the criteria of section 408(a) of the Act are satisfied in the proposed transaction for the following reasons: (1) The Plan will receive cash for the Property and the Cranes in the amount of no less than their fair market value on the sale date as determined by an qualified, independent appraiser selected by the Trustee; (2) The Plan will not incur any costs or expenses related to the proposed transaction; (3) The transaction will allow an appropriate diversification of Plan assets, as the Property and the Cranes constitute a high percentage of Plan assets; and (4) The Trustee represents that the Plan has been made whole with respect to the Employer's past uses of the Property, the Cranes, the extensions of credit resulting from the Employer's deficiencies under the Lease and Blue Chip's use of the Property.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8881 (this is not a toll-free number.).

Operating Engineers Training Trust (the OE Plan) Located in Whittier, California and Southern California Surveyors Joint Apprenticeship Trust (the SC Plan; together, the Plans) Located in Walnut, California

[Applications Nos. D–7513 and D–7527]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act shall not apply to: (1) The proposed sale by the International Union of Operating Engineers, Local Union No. 12 (Local 12) to the OE Plan of 20 units of a two-way communications system (the Radios) and a Base Station, and the proposed sale by Local 12 to the SC Plan of 4 Radios and a Base Station, for $2,400 per Radio and $4,908 per Base Station, provided such amounts are not greater than the fair market value of the Radios and the Base Stations at the time of the sales; and (2) the proposed use by the Plans of Local 12's communications equipment including common hardware and antenna, under the terms described in this proposed exemption, provided such terms are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plans are multi-employer employee welfare benefit plans which provide apprenticeship and other training programs. The OE Plan has approximately 17,810 participants and had assets of $4,288,000 as of June 30, 1987. The SC Plan has approximately 1,350 participants and had assets of $643,201 as of July 31, 1987. One-half of the members of the board of trustees of each Plan are appointed by employer associations, and the remaining one-half of each board of trustees are appointed by Local 12. Each of the trustees of the Plans appointed by Local 12 is an employee of Local 12, and some are officers of Local 12.

2. The Plans have been using a radio communications system with Local 12 for many years. The primary reason for such a communications system is safety. If an accident occurs, the Plans need to be able to learn of the accident and contact medical and safety personnel as soon as possible. The communications system has also been used to allow the Plans' field representatives to monitor several jobsites so they can provide assistance and advice as the situation requires. These field representatives and the Plans' administrative staffs have been able to communicate with Local 12's personnel by radio to obtain needed information and increase their effectiveness in monitoring the training progress of apprentices.

3. Local 12 recently upgraded its own communications system. Until recently, Local 12 used equipment that transmitted over a radio channel shared with many other users. With the number of users of the channel increasing, communication was usually difficult and sometimes impossible. In order to obtain a license for a new exclusive radio channel, Local 12 constructed six micro repeaters stations (the MRS) located at various points throughout Southern California, and purchased 75 Radios, the minimum number able to use the exclusive channel. The Radios are Motorola two-way mobile communications systems, Model Syntor X 9000. The Radios cost $2,400 each, and Local 12 incurred fixed costs of $181,640 in connection with the MRS common hardware, antenna hook-up and installation.

4. The Plans now wish to purchase Radios from Local 12 so that they will be able to take advantage of Local 12's exclusive channel. The applicants represent that the Plans cannot simply buy 20 and 4 Radios, respectively, from Motorola or any other third party manufacturer and proceed to use the radios for communications purposes. The Radios must be part of a system containing properly located repeater stations and access to a frequency channel licensed by the FCC. In the absence of the proposed exemption, the Plans would have to buy the equipment and pay for installation of six MRS of their own, and also obtain the minimum number of Radios required to qualify as a licensee of an exclusive channel. Motorola has quoted the fixed cost of $147,306, plus monthly recurring costs of $1,800, to the OE Plan, not including the cost of the 20 Radios, the cost of the unneeded extra Radios required to obtain the license nor the cost of acquiring the license.

5. Accordingly, the Plans propose to acquire the Radios from Local 12. The OE Plan proposes to buy 20 Radios, and the SC Plan proposes to buy 4 Radios. The Radios are to be installed in vehicles owned by the Plans and operated by employees of the Plans. In addition, each Plan will buy one Base Station to be located at the Plan's headquarters. The Plans will pay $2,400 each per Radio, and $4,908 for each Base Station, which is the price that Local 12 paid to Motorola for these items. However, Local 12 will not charge the Plans any installation fees for the Radios, which will save the Plans $3,000. The OE Plan will pay Local 12 $1,345.49 per month for a term of three years to amortize a pro rata share (20/75) of the fixed costs incurred by Local 12 for common hardware, antenna hook-up and installation. The SC Plan will pay Local 12 $269.10 per month for a term of three years to amortize its pro rata share (4/75) of Local 12's fixed costs. The amortization schedule includes no interest on the capital expended by Local 12. The Plans will deal directly with Motorola for maintenance of the Plans' Radios ($10/month per Radio) and a pro rata share (20/75 for the OE Plan, 4/75 for the SC Plan) of repeater maintenance and site rental for the repeater sites furnished by Motorola for Local 12's communications system. Local 12 will allow the Plans access to its exclusive channel frequency without additional charge.

6. Both Plans have obtained Glen Slaughter & Associates (GSA), an independent employee benefit plan administrator in Pasadena, California,

as an independent fiduciary to review the purchase of the equipment by the Plans and to monitor the use of the equipment. Mr. Joseph Ehrbar, Vice President of GSA, represents that he has reviewed the proposed transactions on behalf of both Plans and has determined that the transactions are appropriate for and in the best interests of both Plans. Mr. Ehrbar represents that the Radios and related equipment cannot be purchased on the same basis for a price even close to the charge from Local 12. He has confirmed the charges with Motorola. The cost of the Radios is the same; there is no installation charge for the Radios, and the various MRS costs are prorated. The acquisitions are important for the Plans as communications between coordinators, business representatives and dispatch officers are essential for reasons of safety and apprentice evaluation. As independent fiduciary, Mr. Ehrbar will monitor the implementation of all terms of the transactions, including the monthly payments to Local 12 and the verification that all equipment purchased by each Plan is used exclusively by Plan personnel in the ordinary course of Plan business.

7. In summary, the applicants represent that the proposed transactions meet the statutory criteria contained in section 408(a) of the Act because: (a) The Radios and Base Stations will represent approximately 1% of the assets of the OE Plan and approximately 2% of the assets of the SC Plan; (b) the terms of the acquisitions of the equipment under the proposed exemption are more favorable to both Plans than those obtainable in an arm's-length transaction with unrelated parties; (c) Mr. Ehrbar, the Plans' independent fiduciary, has represented that the proposed transactions are appropriate for the Plans and in the Plans' best interests; and (d) Mr. Ehrbar will monitor the Plans' use of the equipment to ensure that all the equipment purchased by the Plans is used exclusively by Plan personnel for Plan purposes.

Notice to Interested Persons: Notice will be provided to interested persons within 30 days of the date of publication of this notice in the **Federal Register**. Comments and hearing requests are due within 60 days of the date of publication.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of November, 1988.

Robert J. Doyle,

Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88-26072 Filed 11-9-88; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Challenge II Section) to the National Council on the Arts will be held on December 2, 1988, from 9:00 a.m.—4:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection 9c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

November 1, 1988.

Yvonne M. Sabine,

Director Council and Panel Operations National Endowment for the Arts.

[FR Doc. 88-26124 Filed 11-9-88; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Care of Collections Section) to the National Council on the Arts will be held on November 29-December 1, 1988, from 9:00 a.m.-5:30 p.m. in room 415 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United State Code.

Further information with reference to this meeting can be obtained from Ms.

Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

November 1, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations National Endowment for the Arts.

[FR Doc. 88–26126 Filed 11–9–88; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra Section) to the National Council on the Arts will be held on

November 29, 1988, from 9:00 a.m.—6:30 p.m. (Room M14);
November 30 from 9:00 a.m.—9:00 p.m. (Room M14);
November 1 from 9:00 a.m.—10:00 p.m. (Rooms M14 and M09);
December 2 from 9:00 a.m.—9:30 p.m. (Rooms MM14 and M09); and
December 3 from 10:00 a.m.—5:30 p.m. (Room M14);
at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington DC 20506.

A portion of this meeting will be open to the public on December 2, from 3:30—6:00 p.m. The topic for discussion will be FY 1990 Music Ensembles Guidelines.

The remaining sessions of this meeting on

November 29 from 9:00 a.m.—6:30 p.m.;
November 30 from 9:00 a.m.—9:00 p.m.;
December 1 from 9:00 a.m.—10:00 p.m.;
December 2 from 9:00 a.m.—3:30 p.m. & 7:00 p.m.—9:30 p.m.; and
December 3 from 10:00 a.m.—5:30 p.m.

are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

November 1, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations National Endowment for the Arts.

[FR Doc. 88–26127 Filed 11–9–88; 8:45 am]

BILLING CODE 7537–01–M

Music Program Advisoring Panel, Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Program Advisory Panel (Opera/Musical Theater New American Works Section) to the National Council on the Arts will be held on November 29—December 2, 1988, from 9:00 a.m.—6:00 p.m. in Room M09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 29, from 9:00—9:45 a.m. The topic for discussion will be the review process.

The remaining sessions of this meeting on November 29 from 9:45 a.m.—6:00 p.m. and November 30—December 2 from 9:00 a.m.—6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

November 1, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations National Endowment for the Arts.

[FR Doc. 88–26125 Filed 11–9–88; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978; Arthur L. DeVries and John T. Shields

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On September 26, 1988, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued to the following individuals on October 31, 1988: Arthur L. DeVries and John T. Shields.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 88–26084 Filed 11–9–88; 8:45 am]

BILLING CODE 7555–01–M

Geography and Regional Science Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Geography and Regional Science.

Date/Time: December 5, 1988: 8:30 a.m. to 6:00 p.m.; December 6, 1988: 8:30 a.m. to 4:00 p.m.

Place: Room 523, National Science Foundation, 1600 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Thomas J. Baerwald, Program Director, Geography and Regional Science, National Science Foundation, Washington, DC 20550, Room 336, Telephone (202) 357–7326.

Purpose of Panel: To provide advice and recommendations concerning research in Geography and Regional Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b, Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88-26049 Filed 11-9-88; 8:45 am]

BILLING CODE 7555-01-M

Metabolic Biology Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Metabolic Biology.

Date: December 1, 2 and 3, 1988.

Place: Savoy Suites Hotel, 2505 Wisconsin Avenue, NW., Washington, DC 20007, Panel Room—Nouveau A.

Type of Meeting: Closed.

Time:

Thursday 9:00 a.m. to 5:00 p.m.

Friday, 8:30 a.m. to 5:00 p.m.

Saturday, 8:00 a.m. to 1:00 p.m.

Contact Person: Carter Kimsey, Cellular Biochemistry Program, Rm 325-I, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7987.

Summary of Minutes: May be obtained from the Contract Person at the above address.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in cellular biochemistry and metabolism.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of Government in the Sunshine Act.

November 7, 1988.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88-26050 Filed 11-9-88; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-255]

Consumers Power Co. Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-20 issued to Consumers Power Company (the licensee) for operation of Palisades Plant, located in Van Buren Country, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TSs) relating to low temperature, overpressure protection and the heatup and cooldown limits for meeting the requirements of 10 CFR Part 50, Appendix G, and operability requirements for the high pressure safety injection pumps.

The proposed action is in accordance with the licensee's application for amendment dated December 22, 1987, as revised by application dated April 12, 1988.

The Need for the Proposed Action

The proposed change to the TSs is required in order to provide assurance that the requirements of Appendix G to 10 CFR Part 50 are met during plant heatup, cooldown and hydrostatic testing.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TSs and concludes that the proposed pressure-temperature limits meet the safety margins of Appendix G, 10 CFR Part 50. The restrictions in heatup and cooldown rate and on pump inoperability/operability and the reduced relief valve settings for low temperature, overpressure protection acceptably protect against the violation of the Appendix G limits, while acceptably mitigating the results of potential primary coolant system coolant loss. Therefore, the proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupation radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed change to the TSs involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impact associated with the proposed amendemnt.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on May 19, 1988 (53 FR 17994). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resource not previously considered in the Final Environmental Statement for the Palisades Plant dated June 1972.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

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 respect to this action, see the application for amendment dated December 22, 1987, as revised by application dated April 12, 1988, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC, and at the Van Zoeren Library, Hope College, Holland, Michigan 49423.

Dated at Rockville, Maryland, this 7th day of November, 1988.

For The Nuclear Regulatory Commission.

Theodore Quay,

Acting Director, Project Directorate III–1, Division of Reactor Projects, III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–26060 Filed 11–9–88; 8:45 am]

BILLING CODE 7990–01–M

[Docket No. 50–255]

Consumers Power Company; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR–20 issued to Consumers Power Company (the licensee) for operation of Palisades Plant located in Van Buren County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specificatins (TSs) to add additional limitations to plant operation with less than four reactor primary coolant pumps operating; modify the rector protection system setpoints, limiting conditions for operation and surveillance requirements to reflect the modifications being made to the reactor protection system; and revise the peaking factors and linear heat rate limits.

The proposed action is in accordance with the licensee's application for amendment dated March 25, 1988, as supplemented by a submittal dated June 17, 1988, and the licensee's application for amendment dated September 1, 1988.

The Need for the Proposed Action

The proposed amendment is required in order to provide more operational margin to safety limits with a new reactor protection system installed during the present refueling outage, the Technical Specifications associated with the new system, additional limitations on operation with less than four reactor primary coolant pumps, and revised peaking factors and linear heat rate limits to reduce fluence on critical reactor welds.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed modifications to the reactor protection system and the revisions to the Technical Specifications. The reactor protection system modifications include a variable high power trip instead of the fixed high power trip at 106 percent of rated power. The variable high power trip will be no more than 10 percent above the existing power but no greater than 106 percent of rated power, 2350, Mwt. Teh modifications include a new thermal margin monitor that has inputs from the upper and lower power range neutron detectors so that the axial power distribution in the core can be factored into the thermal margin monitor. The previous thermal margin monitor used a fixed, conservative value of axial power distribution. The Associated Technical Specifications, both limiting conditions for operation and surveillance requirements ensure that this system is operable when required. The Technical Specification change for operation with less than four reactor primary coolant pumps in operation adds restrictions, not presently in the Technical Specifications, to preclude operation in a condition that could produce consequences greater than those determined from the analyses of design basis accidents. The change in peaking factors and linear heat rate are supported by accident reanalyses that demonstrate that the design basis limits continue to be met. Therefore, the proposed changes do not increase the probability or consequences of any accident, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission conculdes that the proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes involve systems located within the restricted area as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Notices of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action were published in the **Federal Register** on July 6, 1988 (53 FR 25397) and September 27, 1988 (53 FR 37663). No request for hearing or petition for leave to intervene was filed following these notices.

Alternative to Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impact need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Palisades Plant dated June 1972.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's requests and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environment impact statement for the proposed license amendment.

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 respect to this action, see the application for amendment dated March 25, 1988, as supplemented June 17, 1988, and the application for amendment dated September 1, 1988, which are available for pubic inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC, and at the Van Zoeren Library, Hope College, Holland, Michigan 49423.

Dated at Rockville, Maryland, this 7th day of November 1988.

For the Nuclear Regulatory Commission.

Theodore Quay,

Acting Director, Project Directorate III–1, Division of Reactor Projects—III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–26061 Filed 11–9–88; 8:45 am]

BILLING CODE 7590–01–M

Correction to Biweekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

On October 19, 1988, the **Federal Register** published the Biweekly Notice

of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. On page 41002, Column 1, the heading, Previously Published Notices of Consideration of Issuance of Amendments to Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing, should be replaced with the following:

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration

During the period since publication of the last biweekly notice, individual notices of issuance of amendments have been issued for the facilities as listed below. These notices were previously published as separate individual notices. They are repeated here because this biweekly notice lists all amendments that have been issued for which the Commission has made a final determination that an amendment involves no significant hazards consideration.

In this case, a prior Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing was issued, a hearing was requested, and the amendment was issued before any hearing because the Commission made a final determination that the amendment involves no significant hazards consideration.

Details are contained in the individual notice as cited.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Dated at Rockville, Maryland, this 3rd day of November 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects III, IV, V and Special Projects.

[FR Doc. 88-26062 Filed 11-9-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

GPU Nuclear Corporation, et al. (Three Mile Island Nuclear Station, Unit No. 1); Exemption

I

General Public Utilities Nuclear Corporation (GPUN/Licensee) and three co-owners hold Facility Operating License No. DPR-50, which authorizes operation of the Three Mile Island Nuclear Station, Unit No. 1 (TMI-1) (the facility) at power levels not in excess of 2568 megawatts thermal. This license provides, among other things, that the facility is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission or the staff) now or hereafter in effect.

The facility is a pressurized water reactor located at the licensee's site in Dauphin County, Pennsylvania.

II

On November 18, 1980, the Commission published a revised section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these 15 subsections, III.G, is the subject of this exemption request. Specifically, Subsection III.G.2b provides that, "* * * where cables or equipment, including associated non-safety circuits that could prevent operation or cause maloperation due to hot shorts, open circuits, or shorts to ground, of redundant trains of systems necessary to achieve and maintain hot shutdown conditions are located within the same fire area outside of primary containment, one of the following means of ensuring that one of the redundant trains is free of fire damage shall be provided:

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustible or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area."

By letter dated May 21, 1988, the licensee requested exemption from the requirements of Section III.G.2.b of Appendix R, as these requirements apply to separation of 20-feet, free of intervening combustibles, with fire detection or suppression capabilities, for redundant reactor letdown system values MU-V-2A, 2B, -3, -4 and -5. The acceptability of the exemption request is addressed below.

III

The purpose of Section III.G.2 to Appendix R is to ensure that redundant components of safety system, required to achieve and maintain post-fire hot shutdown, are protected in such a way that at least one such component will remain free of damage which could prevent the completion of the safety function. One such means of protecting these redundant safety components is provided for in Section III.G.2.b, that is, separate the components by at least 20-feet without intervening combustibles or fire hazards, with a fire detection and suppression capability.

At TMI-1, Fire Zones AB-FZ-4 and FH-FZ-1 contain circuits which if damaged by fire, could prevent letdown isolation from the control room. Values MU-V-2A and 2B, or MU-V-4 and 5, or MU-V-3 can be used to isolate letdown. Although redundant values exist which allow for letdown isolation, a situation can be postulated in which spurious opening of valve MU-V-5 concurrent with the loss of intermediate cooling to the letdown coolers could result in damage to the low pressure portion of the letdown system.

Fire Zone AB-FZ-4 is on elevation 281' of the Auxiliary Building. Fire Zone FH-FZ-1 is on elevation 281' of the Fuel Handling Building. Both zones contain redundant circuity for letdown isolation valves. In Fire Zone AB-FZ-4, circuits associated with valve MU-V-5 are approximately 40 ft. from cable trays containing MU-V-2A and MU-V-2B. In Fire Zone FH-FZ-1, circuits associated with valve MU-V-3 are 36 ft. from the trays containing MU-V-2A and 2B circuits. The space between the redundant valve combinations contains intervening combustibles in the form of cable trays in both fire zones.

Both fire zones contain area wide smoke detection which alarms in the Control Room. Both zones are provided with area wide suppression covering the floor area and cable trays. Portable fire extinguishers and hose reels are provided throughout both zones. The combustible loading in both zones is less than one hour in equivalent time as compared with the ASTM E119 Time-Temperature Curve.

Fire Zones AB-FZ-4 and FH-FZ-1 are not in compliance with Section III.G.2 of Appendix R to 10 CFR Part 50 since redundant Letdown Isolation circuits are not separated by a distance of 20 feet or greater which is free of intervening combustibles.

However, both areas are provided with detection and suppression in accordance with Section III.G.2 of Appendix R. The intervening combustibles between the redundant circuits are in the form of cables, which if ignited, would be expected to initially burn slowly with limited heat release. The detection provided in both zones would be expected to notify the Control Room of any fire in the zones. Control

Room Operators would dispatch the plant fire brigade which would use available extinguishers and hose reels to control the fire. In addition, the automatic suppression provided in both zones gives reasonable assurance that a fire could not travel between redundant letdown isolation value circuits. Therefore, the current configuration of Fire Zones AG–FZ–4 and FH–FZ–1, including the installed fire protection features, provides a level of protection equivalent to that of Section III.G.2 of Appendix R.

IV

Based on the evaluation above, the level of protection provided in Fire Zones AB–FZ–4 and FH–FZ–1 has been found to be equivalent to that called for in Section III.G.2 of Appendix R. Specifically, the intervening combustibles between redundant Letdown Isolation Value circuits have been found not to present a level of safety less than that called for in Appendix R.

Accordingly, the Commission has determined pursuant to 10 CFR 50.12(a), that (1) this exemption as described in Section IV is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and (2) special circumstances are present for this exemption in that application of the regulation in this particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. Specifically, the underlying purpose of Appendix R, Section III.G.2.b is to assure that a suitable complement of safe-shutdown equipment will be available, post-fire, to achieve and maintain hot shutdown of the reactor. The analysis of valves MU–V–2A and 2B, MU–V–3 and MU–V–4 and –5 indicates that at least one set of valves will be capable of performing its post-fire shutdown role (i.e. isolate the low-pressure letdown piping) without additional fire protection enhancements. Therefore, the Commission hereby grants the exemption request identified in Section IV above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (53 FR 44247).

Dated at Rockville, Maryland, this 2nd day of November 1988.

For The Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–26063 Filed 11–9–88; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Order No. 806; Docket No. A89–2]

Notice and Order Accepting Appeal and Establishing Procedural Schedule; Jack and Dixie Wignall, Petitioners; Dallas, IA

Issued November 4, 1988.

Before Commissioners: Janet D. Steiger, Chairman; Patti Birge Tyson, Vice-Chairman; John W. Crutcher; Henry R. Folsom; W.H. "Trey" LeBlanc III.

Docket Number: A89–2.

Name of affected Post Office: Dallas, Iowa 50062.

Name(s) of Petitioner(s): Jack and Dixie Wignall.

Type of Determination: Consolidation.

Date of filing of Appeal Papers: November 3, 1988.

Categories of Issues Apparently Raised

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
2. Effect on the community (39 U.S.C. 404(b)(2)(A)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before November 18, 1988.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

November 3, 1988, Filing of Petition
November 4, 1988, Notice and order of Filing of Appeal
November 28, 1988, Last day of filing of petitions to intervene (*see* 39 CFR 3001.111(b))
December 8, 1988, Petitioners' Participant Statement or Initial Brief (*see* 39 CFR 3001.115 (a) and (b)
December 28, 1988, Postal Service Answering Brief (*see* 39 CFR 3001.115(c))
January 12, 1989, Petitioners' Reply Brief should Petitioners choose to file one (*see* 39 CFR 3001.115(d)
January 19, 1989, Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116
March 3, 1989, Expiration of 120-day decisional schedule (*see* 39 U.S.C. (404(b)(5))

[FR Doc. 88–26088 Filed 11–9–88; 8:45 am]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–26247; File No. SR–BSE–88–3]

Self-Regulatory Organizations; Notice and Immediate Effectiveness of Proposed Rule Change by Boston Stock Exchange, Inc. and the Boston Stock Exchange Clearing Corp. relating to an amendment of their schedules of value and comparison charges.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 19, 1988, the Boston Stock Exchange, Incorporated ("BSE") and the Boston Stock Exchange Clearing Corp. ("BSECC") filed with the Securities and Exchange Commission the proposed rule as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

Effective November 1, 1988 the fee schedules have been amended to provide for reduced charges on trades less than 1,300 shares. The specific changes are listed in *Exhibit 1*, which is attached to this notice.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4 (1986).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements governing the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose and Statutory Basis for, the Proposed Rule Change

(a) The BSE and BSECC have proposed revised fee schedules that reduce charges on trades of less than 1,300 shares. The purpose of the revised schedules is to encourage members to direct additional orderflow to the BSE.

(b) The basis for the proposed change is Section 6 [3] of the Act, and in particular section 6(b)(4) in that the reduction of charges on trades of less than 1,300 shares is consistent with the equitable allocation of reasonable fees among its members and issuers and other persons using its facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were solicited from the Fee Committee of the Board of Governors comprised of representatives of dealer-specialists, retail, and institutional firms and, similarly, from the Executive Committee which serves as the Board of Governors of the Clearing Corporation and from the Board of Governors of the Exchange.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[3] 15 U.S.C. 78f (1982).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 1, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: November 3, 1988.

Exhibit 1—Boston Stock Exchange Fiscal 1989 Fee Reduction

Fee Schedules as of November 1, 1988 Transaction Related Fees

Fee Schedule Through October 30, 1988

Trade Recording & Comparison

First 2,500 Trades/Month
$.29 per 100 shares
Next 2,500 Trades/Month
$.25 per 100 shares
Next 2,500 Trades/Month
$.15 per 100 shares
Over 7,500 Trades/Month
$.05 per 100 shares
Maximum Fee per Trade Side
$50
Minimum Fee per Trade
None

Value Charges

First $10M per Month
$.16 per $1,000 value
Next $40M per Month
$.13 per $1,000 value
Next $50M per Month
$.10 per $1,000 value
Next $100M per Month
$.08 per $1,000 value
Next $300M per Month
$.05 per $1,000 value
Over $500M per Month
$.03 per $1,000 value
Maximum Charge per Side
$100

Fee Schedule as of November 1, 1988

Existing schedule applies for trades equal to or greater than 1,300 shares. Revisions are as follows:

(1) Trades less than 1,300 shares—$.10 per Trade Side.

(2) Per trade charge is applied to BSE EXECUTIONS ONLY.

(All trades will accumulate for volume discounts.)

Existing schedule applies for trades equal to or greater than 1,300 shares. Revisions are as follows:

	Discount [1] (percent)
(1) Trade Size:	
1 to 100 shares	60
101 to 500 shares	50
501 to 700 shares	40
701 to 1,299 shares	30
(2) Discounts apply to BSE EXECUTIONS ONLY.	

[1] Contract value on these trades will accumulate for volume discounts.

[FR Doc. 88-26021 Filed 11-9-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-2649; File No. SR-DTC-88-18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change By The Depository Trust Company Relating to International Institutional Delivery System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 26, 1988, The Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as discribed in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule change

The Depository Trust Company ("DTC") is filing herewith a proposed rule change relating to an International Institutional Delivery System.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A). Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose for the proposed rule change is to provide information which is intended to increase efficiency in settling many institutional trades executed in foreign (non-U.S. or Canadian) securities. The proposed rule change would add an international capability to DTC's existing Institutional Delivery System that would permit users to accept foreign security trade confirmation data from brokers-dealers, distribute ID confirmations to international investors and other interested parties, provide for trade affirmation, and transmit deliver/receive instructions to those concerned, including foreign sub-custodians. Trade settlement would not take place in DTC, but between foreign sub-custodians.

See Exhibit A for key components of the proposed International Institutional Delivery System.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC since the proposed rule change will increase efficiency in settling many trades in foreign securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule change was developed at the request of Participants and securities industry organizations. An International ID steering committee composed of industry representatives developed solutions for the issues involved. DTC requested comments on the proposed rule change by memorandum dated August 26, 1988. One comment letter was received which endorsed the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the data of publication of this notice in the **Federal Register** or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number SR–DTC–88–18 and should be submitted by December 1, 1988.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: November 6, 1988.

Exhibit A

DTC's International Insitutional Delivery System

Key components of IID are as follows:

1. To accommodate short settlement cycles in some markets, IID from the outset will be capable of processing trade confirmation data, generating confirms, processing affirms, and generating deliver/receive isntructions, all on the same day.

2. The SEDOL (Stock Exchange Daily Official Listing) security numbering system will be strongly recommended for all participating users. However, IID initially will accept any numbering system on IID input and pass it through on all output (including confirmations) related to that trade. Later the feasibility will be reviewed of providing users with output in the particular numbering system of their preference, regardless of the numbering system used for input.

3. Computer to Computer Facility (CCF and CCF II) users may effect to receive either the existing ID or ISO (International Standards Organization) deliver/receive instruction formats.

4. A new affirm function will permit the investment manager to have DTC provide payment and settlement instructions to the agent (global custodian).

5. Global custodians and brokers will forward deliver/receive instructions to their sub-custodians to effect foreign settlement.

[FR Doc. 88–26019 Filed 11–9–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–2646; File No. SR–Amex–88–23]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc. Relating to Amendment To Amex Rule 205 to Modify Pricing Procedures for Odd-Lot Market Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 18, 1988, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. is proposing to amend Exchange Rule 205 to require execution of odd-lot market orders at the prevailing Amex quote with no odd-lot differential charged; to permit the acceptance of odd-lot orders to buy or sell "at the close" and to provide that the odd-lot portion of a Part of Round Lot (PRL) order will be executed at the same price as the round lot portion, with no differential charged.

The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), and (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

(a) *Odd-lot market orders.* Amex Rule 205 provides procedures for the execution on the Exchange Floor of odd-lot orders (orders to buy or sell a security in an amount less than the unit of trading), and currently requires odd-lot market orders to be filled at the price of the first round lot transaction to occur on the Floor after the odd-lot is received at the trading post. An odd-lot differential (generally ⅛ or ¼ point, depending on the price of the stock) may be added by the odd-lot dealer to odd-lot orders to buy, or subtracted from odd-lot orders to sell.

The Amex is proposing to amend Amex Rule 205 to require odd-lot market orders with no qualifying notations to be executed at the price of the prevailing Amex quotation in the stock at the time the order is represented in the market either by being received at the trading post or through the Exchange's Post Execution Reporting system (PER). Buy orders would be executed on the Amex offer and sell orders would be executed on the Amex bid. No odd-lot differential would be charged. These procedures would also apply to orders to buy on the offer and orders to sell on the bid marked "long". They would not apply to market orders to sell "short", which would be filled at the price of the next transaction on the Floor following receipt of the order at the trading post or through the PER system which is higher than the last different round lot price. A differential could be charged for such orders.

(b) *Odd-lot limit orders/other orders.* No change is proposed to the pricing of odd-lot limit orders and a differential would continue to be permitted for such orders.

Procedures would remain the same for other types of orders included in Rule 205, such as limit orders to buy on the offer or sell on the bid, limit orders marked "immediate or cancel," limit orders "with or without sale," or limit orders to buy or sell marked "or on close."

(c) *Openings.* All odd-lot market orders entered prior to the opening of trading would receive the opening price, with no differential charged.

(d) *"At the close" orders.* Rule 205 would be further amended to eliminate Rule 205(B)(2) in order to permit the acceptance of odd-lot orders to buy or sell "at the close," (plus or minus any differential). This is to conform odd-lot procedures with procedures implemented by the Exchange to permit Amex specialists to accept round lot market at-the-close orders.[1]

(e) *Part of Round Lot (PRL) orders.* Finally, Rule 205 would be amended to provide that the odd-lot portion of a Part of Round Lot (PRL) order (an order consisting of a round lot portion and an odd-lot portion, *e.g.*, an order of 101 shares, or 275 shares) will be executed at the same price as the round lot portion, with no differential charged, whether entered directly with the specialist or through the PER system. The Exchange is modifying procedures for the entry and execution of PRL orders through the PER system to provide for single price executions.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of Sections 6(b)(5) and 11A(a)(1) in particular in that it facilitates the economically efficient execution of odd-lot transactions, which will result in improved execution of customer orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

[1] *See* Securities Exchange Act Release Nos. 24616 (June 19, 1987) 52 FR 23909 and 25331 (February 16, 1988) 53 FR 4491.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted by December 1, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: November 3, 1988.

[FR Doc. 88-26016 Filed 11-9-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26250; File No. SR-DTC-88-16]

Self Regulatory Organizations; Depository Trust Company; Order Granting Approval of Proposed Rule Change Concerning Memo Segregation

On August 1, 1988, the Depository Trust Company ("DTC") filed a proposed rule change (File No. SR-DTC-88-16),

with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("the Act"), 15 U.S.C. 78s(b)(1).[1] On August 22, 1988, the Commission published notice to solicit comments from interested persons and granted accelerated temporary approval of this proposed rule change.[2] No comments were received. As discussed below, the Commission is approving this proposal.

I. Description

The proposal would authorize DTC to establish a new method for participants, particularly broker-dealer participants, to segregate customer fully-paid-for securities against unintended delivery by creating a "memo" position within a participant's free account. This "memo" position allows participants to protect from unintended delivery a designated quantity of customer fully-paid-for securities that are in the participant's free account or may be received during the daily processing cycle. Securities would remain in the memo position until the participant provides DTC with new instructions to remove them from the memo position or until the participant reduces the position by executing eligible transactions that are normally customer transactions. Withdrawals-by-transfer, certificates-on-demand withdrawals, and free delivery orders that are not indentified as stock loan or stock loan returns would be considered eligible transactions which would be used to reduce the securities in both the memo position and the free account position.[3]

By using memo segregation, participants can submit instructions on the evening of T+4 to deliver securities which they expect to receive on T+5 out of the free account and protect customer fully-paid-for securities in the free account from delivery. If on T+5 there are not enough non-segregated securities in the account to fill the order, the delivery order will recycle until enough non-segregated securities are in the account to fill the order.

DTC developed the memo segregation service to assist participant broker-dealers to comply with Exchange Act requirements concerning segregation of customer fully-paid for securities.[4] This service supplements other related DTC account structures to protect participant customer fully-paid-for securities from unrelated or intra-day DTC liens, such as segregated accounts and the conduit accounts.[5]

DTC has been operating the memo segregation service since August 1988, under the terms of a temporary approval order.[6] DTC has informed the Commission that during the pilot period 12 broker-dealers used the service and submitted approximately 65 memo segregation instructions per day. DTC has experienced no operational problems with this service. According to DTC, its participants have not experienced any operational problems with the service.[7]

II. DTC's Rationale

DTC believes that the proposed rule change is consistent with the requirements of action 17A(b)(3)(F) of the Act in that it is designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency. DTC believes that implementing this service will assist broker-dealers in complying with Exchange Act Rule 15c3–3. In addition, DTC states that the participants which have used this service during the pilot period believe that it improved their ability to comply with Commission Rule 15c3–3 by increasing the number of automated deliveries which can be made without violating the Rule 15c3–3 requirements.

III. Discussion

The Commission believes that the proposal is consistent with section 17A(b)(3) (A) and (F) of the Act. The Commission also agrees with DTC that the proposal will allow broker-dealer participants to increase the number of automated deliveries made through DTC and, at the same time, provide broker-dealer participants with an additional tool to aid them in protecting customer fully-paid-for securities as required by Exchange Act Rule 15c3–3. In addition, DTC has operated memo segregation for two months without any significant operational problems. Based on DTC's experience, the Commission believes that full implementation of memo segregation will promote the prompt and accurate clearance and settlement of securities transactions and improve DTC's ability to safeguard customer fully-paid-for securities within its custody or control.

DTC provides custodial services for its participants, including banks and broker-dealers. Broker-dealers trade for their own accounts and act as custodians for customers. Rule 15c3–3 requires brokers, acting in a custodial capacity, to maintain possession or control over such customer fully-paid-for securities.

DTC's custodial services are one of several alternative means for participants to maintain their own and customer securities. Other custodial arragements include: (1) The retention of the physical securities in the broker-dealer's vault; (2) a custodial arrangement with a custodial bank or another broker-dealer; and (3) an arrangement with other registered depositories. DTC has no way of knowing which, if any, securities in its possession or control represent customer fully-paid-for securities. Moreover, under section 8(c) of the Act and Rule 8c–1(g) thereunder, DTC is under an obligation to deliver fully-paid-for securities to its participants.

The Commission believes that memo segregation provides a useful aid to broker-dealers in managing their depository accounts and their inventory controls to assure possession or control of customer fully-paid-for securities. Before DTC offered the memo segregation enhancement, participants protected customer fully-paid-for securities from delivery by placing them in a separate account or sub-account. When a participant's customers wanted to transfer these securities, the participant was required to take the additional step of transferring the securities into his free account before the securities could be delivered out of the account. The Commission believes that memo segregation provides participants with more flexibility, eliminates the need for additional transfers to protect customer fully-paid-for securities within the participant's free account, and allows for automated

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[1] 15 U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 26000 (August 16, 1988), 32 FR 31947.

[3] DTC presumes that these activities are customer transactions and, therefore, once satisfied from a participant's free account position, are no longer anticipated customer securities that need protection.

[4] Rule §240.15c–3 requires, among other things, that a broker-dealer obtain and thereafter maintain possession or control of all fully-paid-for or excess margin securities held for the accounts of customers. Broker-dealers may deposit these securities with registered clearing agencies, such as DTC, for safekeeping.

[5] Currently, to protect customer fully-paid-for securities, broker-dealers must segregate customer fully-paid-for securities in a segregated account which prevents these securities from being used for any transactions while they are held in the segregated account. Securities in a segregated account may not be delivered out until those securities are transferred to the participant's free account. A participant also may open a conduit account to receive certain securities (*e.g.*, stock-loan deliveries). A participant issues instructions to DTC to deliver securities out of this account rather than the participant's free account. Participants usually use a conduit account to make a delivery using securities it expects to receive that day.

[6] *See* Securities Exchange Act Release No. 26000 (August 16, 1988), 53 FR 31947.

[7] Telephone conversation between Carl Urist, Deputy General Counsel, DTC and Cynthia Psoras Staff Attorney, Commission, October 12, 1988.

deliver orders to be executed through DTC.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act and, in particular, section 17A.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–88–16) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: November 3, 1988.

[FR Doc. 88–25017 Filed 11–9–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26242; File No. SR–NASD–88–29]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Proposed Rule Change Concerning Amendments to the NASD Code of Arbitration Procedure

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 1, 1988, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, and two amendments thereto, filed on September 19, 1988 and October 7, 1988, as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to amend Part II section 10, and Part III, sections 13, 21, 23, 25, 32, 37, and 43 and to establish a new section 45 of the NASD Code of Arbitration Procedure (the "Code") to improve the efficiency of its arbitration process, to extend the benefits of simplified arbitration procedures to industry controversies involving not more than $10,000; to expedite the service of pleadings in arbitration proceedings; to provide additional information concerning arbitrators' background to parties to arbitration proceedings; to codify the affirmative disclosure obligations of arbitrators; to require that parties pay deposits upon the filing of counterclaims, cross-claims, and third-party claims; to improve pre-hearing processes and provide for pre-hearing conferences; to require that a verbatim record of proceedings be kept; to establish a separate fee schedule for industry and clearing controversies; to establish a surcharge for proceedings handled on an expedited basis at the request of the parties or pursuant to court order; and to clarify the authority of arbitrators or the Director of Arbitration to assess fees and costs or to refund deposits.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, in NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) A Uniform Arbitration Code (the "Uniform Code") has been developed by the Securities Industry Conference on Arbitration ("SICA"), which is composed of representatives of the NASD, nine other self-regulatory organizations, four public members, and the Securities Industry Association. The Uniform Code, as implemented by the various self-regulatory organizations, has established throughout the securities industry a uniform system of arbitration procedures. The proposed changes to sections 21, 23, 25 (with the exception of section 25(c)), 32, 33 and 37 are intended to conform the provisions of the Code to amendments to the Uniform Code approved by SICA on May 24, 1988.

The proposed changes to section 10 and the new proposed section 45, while not constituting a part of the Uniform Code, were recommended by the NASD National Arbitration Committee and were approved for filing by the NASD's Board of Governors on May 10, 1988.

In general, the proposed rule changes are intended to improve the efficiency of the arbitration process; to extend the benefits of simplified arbitration procedures to industry controversies involving not more that $10,000; to expedite the service of pleadings in arbitration proceedings; to provide additional information concerning arbitrators' backgrounds to parties to arbitration proceedings; to codify the affirmative disclosure obligations of arbitrators; to require that parties pay deposits upon the filing of counterclaims, cross-claims, and third-party claims; to improve pre-hearing discovery processes and provide for pre-hearing conferences; to require that a verbatim record of proceedings be kept; to establish a separate fee schedule for industry and clearing controversies; to establish a surcharge for proceedings handled on an expedited basis at the request of the parties or pursuant to court order; and to clarify the authority of arbitrators or the Director of Arbitration to assess fees and costs or to refund deposits.

(1) *Simplified Industry Arbitration.* Section 10 of the Code currently permits disputes between or among members or associated persons involving a dollar amount not exceeding $5,000, exclusive of attendant costs, to be considered under simplified industry arbitration procedures. In order to extend the benefits of these procedures to a greater number of cases, the proposed rule change would increase the current $5,000 limit to $10,000. This proposed rule change would be consistent with current provisions applicable in customer disputes.

(2) *Simplified Arbitration.* Section 13 of the Code currently requires that all pleadings, including claims, answers, and third-party claims, be filed with the Director of Arbitration, who in turn serves all parties to a proceeding with a copy of each pleading. Consistent with procedures utilized by the Commodity Futures Trading Commission in reparation proceedings and the American Arbitration Association, it is proposed that the simplified arbitration provisions of the Code be amended to eliminate NASD responsibility for service of pleadings subsequent to the filing of a Claim (the initial pleading in any proceeding). The NASD arbitration staff would continue to serve all initial claims, but the parties would be required to serve each other and the NASD by the means prescribed in proposed section 25(c) with a copy of all subsequent pleadings. This modification would substantially reduce delays experienced in the initial stages of a

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[1] Because of the nature of this proposed rule change and the fact that some arbitration proceedings are already pending, the NASD has proposed specific dates of effectiveness for the various sections of the Code being amended. *See infra* Item III of this Notice.

case, resulting in improvements in case administration and speedier resolution of claims.

(3) *Notice of Selection of Arbitrators.* Section 21 of the Code mandates disclosure of only the names and business affiliations of arbitrators. In order to provide the parties with more extensive information concerning the arbitrators' backgrounds, it is proposed that employment histories of arbitrators for the past ten years, as well as information disclosed pursuant to section 23, be made available to parties at least eight business days prior to the date of an initial hearing session.

(4) *Disclosures Required by Arbitrators.* Upon appointment to the NASD National Arbitration Pool, each potential NASD arbitrator receives a copy of the American arbitration Association/American Bar Association Code of Ethics for Arbitrators, which set forth their obligation to inform the parties of any conflicts of interest which may impair their ability to render an impartial award. The proposed amendment to section 23 of the Code is intended to reinforce the obligation or arbitrators regarding the full range of disclosures which they would be required to make to parties in arbitration proceedings. The proposed amendments codify the arbitrator's continuing obligation to disclose matters which may indicate the appearance or existence of partiality or bias.

(5) *Initiation of Proceedings.* Section 25 of the Code currently requires that all proceedings, including claims, answers, third-party claims, and cross-claims, be filed with the Director of Arbitration, who in turn serves all parties to a proceeding with a copy of each pleading. Consistent with procedures utilized by the Commodity Futures Trading Commission in reparation proceedings and the American Arbitration Association, it is proposed that the Code be amended to eliminate NASD responsibility for service of pleadings subsequent to the filing of a Claim, the initial pleading in any proceeding. The NASD arbitration staff would continue to analyze and serve all initial claims, but the parties would be required to serve each other and the NASD with a copy of all subsequent pleadings. This modification would substantially reduce delays experienced in the initial stages of a case, and would result in improvements in case administration. This change is identical to that in revised section 13 for simplified arbitration.

(6) *General Provisions Governing Pre-Hearing Proceedings.* Proposed section 32 of the Code continues the current practice of encouraging the parties to exchange documents and information prior to the first hearing date and allows the arbitrators to rule upon disputes between the parties regarding what documents must be produced. This section also provides that the Director of Arbitration may appoint a single presiding person or arbitrator to conduct pre-hearing conferences or may appoint a single arbitrator on a hearing panel to resolve pre-hearing issues between the parties and make decisions to expedite the proceedings. Such issues would be decided upon the parties' written submissions or, in the discretion of the arbitrator, after a hearing. The arbitrator would be empowered to act on behalf of the entire panel to "issue subpoenas, direct appearances of witnesses and production of documents, set deadlines for compliance, and issue any other ruling which will expedite the arbitration proceedings." Proposed section 32(c) is similar to New York Stock Exchange Arbitration Rule 638 which mandates the pre-hearing exchange of documents intended to be used in the party's direct case at the hearing. The foregoing provisions address many of the major criticisms of the arbitration process and would serve to reduce delays occasioned by failure of parties to comply with document exchange requirements prior to the date of the initial hearing.

(7) *Subpoenas and Power to Direct Appearances.* Proposed section 33 of the Code consolidates current sections 32(a) and 33, which deal with the power of arbitrators and counsel to issue subpoenas as provided by applicable law, and empower arbitrators to direct the appearance of any person employed or associated with any member of the NASD and to direct the production of any records in the possession or control of such persons. Proposed section 33(a) would also require that notice of the issuance of all subpoenas be given to all parties to a proceeding.

(8) *Record of Proceedings.* Section 37 of the Code currently does not require that a record of a proceeding be kept. As a matter of practice, the NASD tape records all arbitration hearings. Consistent with the Uniform Arbitration Code adopted by SICA, the proposed section would require that a record be kept in all proceedings. The proposed rule would expressly authorize the practice of tape recording hearings. Parties seeking the transcription of proceedings would bear the costs of such transcription unless the arbitrators directed otherwise, and arbitrators would also be authorized, on their own motion, to direct that a record be transcribed.

(9) *Schedule of Fees for Customer Disputes.* Section 43 of the Code currently does not require parties prosecuting counterclaims, cross-claims, or third party claims to make deposits upon the assertion of such claims, although such deposit is required of claimants. In order to equalize the obligations of all those experiencing the benefits of the arbitration process, the proposed rule would require parties prosecuting counterclaims, cross-claims, or third party claims to make deposits. By requiring such parties to make deposits, and by virtue of the fact that all forum fees may, in appropriate circumstances, be assessed by the arbitrators against a single non-prevailing party, the potential fees which a losing party might be ordered to pay at the conclusion of an arbitration proceeding might be substantially increased. The rule also codifies an administrative definition which has been applied in cases filed with the NASD since January 1987, by defining a "hearing session" as any meeting between the parties and an arbitrator, including pre-hearing conferences with an arbitrator, which lasts four hours or less. Further, the rule gives notice to the parties of the maximum amount of forum fees which they may reasonably expect to have assessed against them, and clarifies the authority of the arbitrators to assess fees and costs, which include but are not limited to costs associated with arbitrator travel, the production of documents, the appearances of witnesses, the preparation of a written record of the proceedings and the rental of a hearing room if the parties do not avail themselves of an available NASD hearing room.

The change in the definition of hearing session referred to above was adopted to correct a disparity between forum fees assessed by the New York Stock Exchange ("NYSE") Arbitration Department and those assessed by the NASD Arbitration Department. The definition set forth in the proposed rule change also encourages more efficient use of arbitration resources by effectively increasing the forum costs in longer proceedings, thus discouraging lack of pre-hearing preparation and other dilatory practices. Notwithstanding the possible increase in the total amount of forum fees which may be assessed by arbitrators as a result of the foregoing definitional change, it is expected that revenues from the assessment of fees and costs will continue to cover only a fraction of the operational costs of the NASD Arbitration Department. Fees collected

from parties to NASD arbitrations covered 7 percent of the Arbitration Department's expenses in FY 1985; 25 percent of such expenses in FY 1986; and 9.4 percent of such expenses in FY 1987.

(10) *Schedule of Fees for Industry and Clearing Controversies.* The NASD does not currently maintain a separate fee schedule pertaining to industry and clearing controversies. Like the separate schedule of fees for industry controversies established under New York Stock Exchange Arbitration Rule 632, proposed section 45 of the Code would establish a separate schedule setting forth the amounts which must be deposited with the NASD in industry or clearing controversies which are required to be submitted to arbitration before the NASD as set forth in section 8 of the Code. The proposed rule incorporates the procedural structure of proposed section 43, with the addition of a proposed subparagraph (h) establishing a non-refundable surcharge of $5,000 payable in industry or clearing controversies requiring expedited hearings. Expedited hearings have been held at the request of the parties or pursuant to a court order binding on the parties in cases in which ongoing or irreparable harm has been alleged for violations of employment agreements, covenants not to compete, use of customer lists or other proprietary information, and other controversies between registrants in the securities industry. The NASD has incurred certain additional administrative costs associated with industry proceedings which, pursuant to court order or by agreement of the parties, have required expedited processing on the part of the arbitration staff and arbitrators. These costs have included increased staff and arbitrator time and effort necessary to schedule, administer, hear, and decide such proceedings on an expedited basis, as well as incidental costs resulting from the rescheduling or delay of other regularly scheduled cases. A non-refundable surcharge of $2,500 proposed in subparagraph (h) would be asessed against all claimants, collectively, and all respondents, collectively, since expedited proceedings occur as a result of the request and agreement of the parties or pursuant to a court order binding on all parties. The proposed surcharge would thus be assessed against those persons experiencing the benefits of expedited consideration.

(b) The NASD believes the proposed rule change is consistent with sections 15A(b) (5) and (6) of the Act, which require the rules of the NASD to provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and, in general, protect investors and the public interest, in that the proposed rule change will facilitate the arbitration process in the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furthermance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The NASD has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such lnger period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

Specifically, the NASD proposes to make effective sections 21, 23, 32, 37 and 45 upon Commission approval of this proposed rule change (except for counterclaims and third party claims that were previosly filed). The proposed provisions of sections 13 and 25 will only apply to cases filed after Commission approval of the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. The Commission encourages comment on an aspect of the proposed rule change, including the proposed effective dates. In addition the Commission requests specific comment as follows:

The proposed rule change represents significant modifications in the current rules for arbitration proceedings administrated by the NASD. On September 10, 1987, the Commission wrote to SICA, ofwhich the NASD is a member, in order to request that it consider a wide range of changes to its Uniform Code of Arbitration. Since that time, SICA has developed new rules to respond to many of the issues raised in the Commission's letter. Proposed amendments to four sections of the Code contained in this filing respond to issues raised in the September 10, 1987, letter. Accordingly, it is with particular interest that the Commission solicits comment on the amendment sto those four sections, sections 21, 23, 32, and 37, dealing ith the discolsure of arbitrator biographical information and potential conflicts of interest, the discovery process and thepreservation of a recored.[2] Comment is sought as to whtether these proposed rule changes will appropriately protect investors and the public. In particular, proposed section 32, concerning prehearing proceedings, does not explicitly provide for the taking of depositions. Rather, the section permits arbitrators to issue any ruling which will expedite the arbitrations proceedings. The Commission understands this to include the ability to order depositions. Comments is specifically solicited as to whether "expediting the proceedings" would cover appropriate reasons for ordering depositions. Should a party be able to have the arbitrators order depositions in a particular cae if he can demostrate to them that a deposition is necessary to develop his case or that he cannot obtain equivalent informatin from documents alone? Would these reasons come within the language of proposed section 32?

In addition, comment is specifically solicited on the proposed amendments to sections 43 and 45 of the Code. These sections change the definiton of a "hearing session" from a full day of hearings to a four hours period, assess forum fees against counter, cross and third-party claimants, specify costs that may be assessed against parties, and add a non-refundable fee of $5,000 to certain intra-industry disputes. The combined effect of these changes has the potential to increase material the fees and costs that could be assessed by the arbitrators against a single party to an arbitration proceeding. Comment is

[2] The NASD is currently preparing to submit to the Commission, in a separate filing, proposed new rules that set out guidelines for public arbitrators. Commentators will be able to submit comments on those and other subjects covered int he September 10, 1987, letter to SICA when those rules are proposed and published for public comment.

solicited on whether such fees and charges are reasonable.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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., will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-88-29 and should be submitted by December 1, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.,

Dated: November 2, 1988.

[FR Doc. 88-26018 Filed 11-9-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26248; File No. SR-NASD-88-19]

Self-Regulation Organizations; National Association of Securities Dealers, Inc.; Extension of Public Comment Period of Proposed Rule Change To Create an OTC Bulletin Board Display Service

On June 9, 1988, the National Association of Securities Dealers, Inc. ("NASD") submitted a proposed change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) and Rule 19b-4 thereunder, to establish a quotation service, the OTC Bulletin Board Display Service, for OTC securities that are not included in the NASDAQ System nor listed on a national securities exchange. Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 25949, July 28, 1988) and by publication in the **Federal Register** [53 FR 29096, August 2, 1988].

The NASD originally consented to an extension of the period for public comment on the proposed rule change for forty-five days, until October 7, 1988,[1] and, on October 14 and October 28, 1988, consented to additional extensions on the comment period, until November 4, 1988.[2]

The Commission hereby extends the period for public comment on the proposed rule change until November 4, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 3, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-26015 Filed 11-9-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24740]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 3, 1988.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 28, 1988 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service *by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application[s] and/or declaration[s], as filed or as amended, may be granted and/or permitted to become effective.

Massachusetts Electric Company (70-7409)

Massachusetts Electric Company ("Company"), 25 Research Drive, Westborough, Massachusetts 01582, a subsidiary of New England Electric System, a registered holding company, has filed a post-effective amendment to its application-declaration pursuant to sections 6(a), 7, 9(a), 10, and 12(c) of the Act and Rules 42 and 50 thereunder.

By order in this proceeding, dated October 9, 1987 (HCAR No. 24473), the Company was authorized to issue and sell through June 30, 1989, one or more series of first mortgage bonds ("Bonds") in an aggregate principal amount not exceeding $100 million. To date the Bonds have not been sold. The Company seeks to amend the terms and conditions of the first mortgage bonds in the following manner. It is proposed to update the restriction on common stock dividends or other distributions to be contained in the Company's Indenture relating to the Bonds. The updated restriction will provide that so long as any the Bonds shall be outstanding, the Company will not declare or pay any dividend or make any other distribution on, or purchase or otherwise acquire for value, any shares of its common stock at anytime outstanding (other than by way of stock dividends or when an equal amount of cash is received concurrently as a capital contribution or from the sale of common stock), if the cumulative aggregate amount of such dividends, distributions, purchases, and acquisitions (at cost) declared or effected subsequent to the issuance of that series of the Bonds exceeds the Net Income of the Company (as defined in the Original Indenture) subsequent to that date, less the aggregate amount of all dividends paid or declared on the preferred stock of the Company during such period, plus an amount approximately equal to the annual dividend payments on the outstanding preferred stock and common stock of the Company, plus such additional amount as may be authorized or approved upon application of the Company to the Commission, or by any successor commission thereto under the Act.

Appalachian Power Company, et al. (70-7549)

Appalachian Power Company, Columbus Southern Power Company, Kentucky Power Company and Ohio Power Company ("Applicants"), all in care of American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, public utility

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[1] *See* letter to Jonathan G. Katz, Secretary, Securities and Exchange Commission, from Frank J. Wilson, Executive Vice President and General Counsel, NASD, dated August 22, 1988.

[2] *See* letters to Jonathan G. Katz, Secretary, Securities and Exchange Commission, from Robert E. Aber, Vice President and Deputy General Counsel, Corporate Subsidiaries, dated October 14, 1988, and October 28, 1988.

subsidiaries of American Electric Power Company, Inc., a registered holding company, have filed an application pursuant to sectons 9(a) and 10 of the Act.

Applicants request authority to lease to one or more nonassociated companies up to 50% of the capacity of a fiber optics system, which they are planning to build between Columbus, Ohio and Roanoke, Virginia for internal communications needs. Such system will consist of 20 fibers and once in operation, Applicants will immediately require the use of 10 of these fibers. Applicants also expect to utilize the remaining 10 fibers in the foreseeable future and have decided to build the entire system now, because it is less costly than constructing such a system in two separate stages, particularly over the mountainous terrain between Columbus and Roanoke.

Louisiana Power & Light Company (70–7553)

Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70114, a wholly owned electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application-declaration pursuant to sections 6(a), 7, 9(a)(1), 10 and 12(c) of the Act and Rules 42 and 50(a)(5) thereunder.

LP&L seeks authorization to issue and sell not more than $350,000,000 principal amount of its first mortgage bonds ("Bonds") to be issued in one or more new series from time to time not later than December 31, 1989.

LP&L further proposes to issue and sell, from time to time not later than December 31, 1989, one or more new series of its preferred stock, cumulative, of either $25 par value or $100 par value (collectively, the "Stock"). the total aggregate par value of shares of those new series of the Stock may not exceed $100,000,000. LP&L may determine that the terms of the Stock should provide for an adjustable dividend rate thereon to be determined on a periodic basis, subject to specified maximum and minimum rates, rather than a fixed dividend rate.

LP&L also proposes to acquire through tender offers or otherwise certain of its outstanding securities at any time, or from time to time, prior to December 31, 1990, including (1) up to $340,000,000 aggregate principal amount of its outstanding first mortgage bonds; and (2) up to $211,000,000 of one or more of series of its outstanding preferred stock.

LP&L has requested an exception, pursuant to Rule 50(a)(5), from the competitive bidding requirements of Rule 50 (b) and (c) so that it can undertake negotiations with respect to the issuance and sale of the Bonds and the Stock. LP&L may proceed to negotiate the terms of the Bonds and the Stock.

Mississippi Power & Light Company (70–7554)

Mississippi Power & Light Company ("MP&L"), P.O. Box 1640, Jackson, Mississippi 39215–1640, a subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application-declaration pursuant to sections 6(a), &, 9(a)(1), 10, and 12(c) of the Act and Rules 42 and 50(a)(5) thereunder.

MP&L proposes to issue and sell, in one or more new series at one time or from time to time not later than December 31, 1989, not more than $100,000,000 principal amount of its general and refunding mortgage bonds ("G&R Bonds"). MP&L is currently authorized to issue and sell through December 31, 1988, up to $150,000,000 aggregate principal amount of its G&R Bonds, $75,000,000 of which currently remains unsold ("Remaining G&R Bonds"). The $100,000,000 of G&R Bonds which is, in part, the subject of this application-declaration includes the Remaining G&R Bonds; if MP&L issues and sells any of the Remaining G&R Bonds, the authorized principal amount of the G&R Bonds would be reduced by an amount equal to the principal amount of the Remaining G&R Bonds sold.

MP&L further proposes to issue and sell, at one time, or from time to time, not later than December 31, 1989, one or more new series of its preferred stock, cumulative, $100 Par Value, in an aggregate amount not to exceed $37,500,000 ("Stock") MP&L may determine that the terms of the Stock should provide for an adjustable dividend rate thereon to be determined on a periodic basis, subject to specified maximum and minimum rates, rather than a fixed dividend rate.

MP&L also proposes to acquire, at any time, or from time to time, prior to December 31, 1990, by means of tender offer, or otherwise, prior to their respective maturities, certain of its outstanding securities, including (1) up to $100,000,000 aggregate principal amount of its outstanding first mortgage bonds; and (2) up to $100,000,000 aggregate par value of its outstanding preferred stock.

MP&L has requested an exception, pursuant to Rule 50(a)(5), from the competitive bidding requirements of Rule 50 (b) and (c) so that it can undertake negotiations with respect to the issuance and sale of the Bonds and the Stock. MP&L may proceed to negotiate the terms of the Bonds and the Stock

System Energy Resources, Inc., et al. (70–7570)

System Energy Resources, Inc. ("SERI"), One Jackson Place, 188 East Capitol Street, Jackson, Mississippi 39201, Arkansas Power & Light Company ("AP&L"), 425 West Capitol Street, Little Rock, Arkansas 72203, and Louisiana Power & Light Company ("LP&L") 317 Baronne Street, New Orleans, Louisiana 70112, each a wholly owned subsidiary of Middle South Utilities, Inc. ("MSU"), a registered holding company, have filed a joint declaration pursuant to Sections 12(b) and 13(b) of the Act and Rules 45, 86, 87, 88, 89, 90, 91, 93, and 94 promulgated thereunder.

SERI currently has a 90% undivided ownership interest in the Grand Gulf Nuclear Project ("Grand Gulf") and operates Grand Gulf Unit No. 1.[1] It is proposed that SERI become the nuclear operating company for the MSU system, effective on or about January 1, 1989. SERI, under licenses to be granted by the Nuclear Regulatory Commission and pursuant to separate operating agreements ("Agreements") with AP&L and LP&L, proposes to operate, but not own, two MSU system nuclear power plants, Arkansas Nuclear One, Units 1 and 2, ("ANO"), located in Pope County, Arkansas, and Waterford Steam Electric Station, Unit No. 3 ("Waterford 3"), located near Taft, Louisiana. ANO and Waterford 3 are owned and currently operated by AP&L and LP&L, respectively.

Under the Agreements, AP&L and LP&L will continue to own the entire output of their respective nuclear plants. Services provided by SERI will be billed to AP&L and LP&L ast SERI's cost and will lbe funded directly by, or allocated among, the owning utilities and paid by SERI. The Agreements further provide for indemnities between SERI and AP&L and SERI and LP&L in connection with SERI's service activities. SERI proposes to indemnify the respective owning utility against all actual losses, costs, liabilities and expenses (except consequential damages, as defined) resulting from SERI's gross negligence or

[1] The remaining 10% undivided interest is owned by South Mississippi Electric Power Association ("SMEPA"), a Mississippi electric cooperative. By order dated October 30, 1980 (HCAR No. 21770), SERI was authorized to operate SMEPA's interest in Grand Gulf 1 pursuant to an Operating Agreement between SMEPA and SERI. SMEPA pays an allocable share of Grand Gulf 1 operating costs to SERI.

willful misconduct, as defined. If SERI otherwise incurs any liability to any third party, any amounts paid by SERI will be a cost passed on to the owning utility. In the event that SERI should require additional capital to finance the proposed transaction, it will seek further authorization from the Commission.

New England Electric System (70–7573)

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed a declaration pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By orders dated January 10, 1980, February 12, 1980, and June 25, 1985, (HCAR Nos. 21387, 21428, and 23743, respectively), the Commission authorized NEES to issue and sell from time to time through December 31, 1988, an aggregate of up to 1,000,000 of its authorized but unissued common shares, $1 par value, pursuant to the NEES Incentive Thrift Plan ("Plan"). After a common stock split on January 24, 1986, and including all issuances under the Plan through September 30, 1988, NEES has a balance of 415,042 authorized but unissued shares. NEES continues to issue shares monthly under the Plan.

NEES now proposes to further extend the period for issuing the remaining common shares under the Plan to December 31, 1992 and to issue and sell an additional 3,000,000 of its authorized common shares for an aggregate of 3,415,042 shares, pursuant to the Plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–26020 Filed 11–9–88; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

November 4, 1988

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Allstate Municipal Income Trust II
Common Stock $.01 Par Value (File No. 7–3981)

American Capital Income Trust
Common Stock, No $.01 Par Value (File No. 7–3982)

Ashland Coal, Inc.
Common Stock, $.01 Par Value (File No. 7–3983)

Blackstone Income Trust
Common Stock, $.01 Par Value (File No. 7–3984)

Bond International Gold, Inc.
Common Stock, $.01 Par Value (File No. 7–3985)

Cigna High Income Shares
Common Stock, No $.01 Par Value (File No. 7–3986)

Citytrust Bancorp, Inc.
Common Stock, $2.50 Par Value (File No. 7–3987)

Comprehensive Care Corp.
Common Stock, $.10 Par Value (File No. 7–3988)

Diagnostic Products
Common Stock, No Par Value (File No. 7–3989)

Emerald Mortgage Investment Corp.
Common Stock, $.01 Par Value (File No. 7–3990)

High Yield Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–3991)

Hughes Supply, Inc.
Common Stock, $1.00 Par Value (File No. 3992)

India Growth Fund Inc.
Common Stock, $.01 Par Value (File No. 3993)

Kemper High Income Trust
Common Stock, $.01 Par Value (File No. 3994)

Kemper Intermediate Gov't Trust
Common Stock, $.01 Par Value (File No. 3995)

Medusa Corp.
Common Stock, No Par Value (File No. 3996)

New American High Income Fund
Common Stock, $.01 Par Value (File No. 3997)

Nuveen California Municipal Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 3998)

Nuveen Premium Income Municipal Fund
Common Stock, $.01 Par Value (File No. 3999)

Par Technology Corp.
Common Stock, $.02 Par Value (File No. 7–4000)

Premier Industrial Corp.
Common Stock, $1.00 Par Value (File No. 7–4001)

Putnam Master Intermediate Income Trust
Common Stock, No Par Value (File No. 7–4002)

Rexene Corp.
Common Stock, $1.00 Par Value (File No. 7–4003)

Silicon Systems, Inc.
Common Stock, No Par Value (File No. 7–4004)

TIS Mortgage Investment Co.
Common Stock, $.001 Par Value (File No. 7–4005)

TCBY Enterprises Corp.
Common Stock, $.10 Par Value (File No. 7–4006)

Universal Medical Buildings, L.P.
Common Stock, $.01 Par Value (File No. 7–4007)

Wyse Technology
Common Stock, No Par Value (File No. 7–4008)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 25, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–26012 Filed 11–9–88; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

November 4, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

XTRA Corporation
Common Stock, $0.50 Par Value (File No. 4009)

These securities are listed and registered on one or more other national securities exchange and are reported in

the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 25, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-26013 Filed 11-9-88; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-4172]

Issuer Delisting; Notice of Application To Withdraw from Listing and Registration; (Sheller-Globe Corp., 13% Senior Subordinated Notes, Due June 15, 2000, American Stock Exchange)

November 4, 1988.

Sheller-Globe Corporation ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to remove the above specified security from listing and registration on the American Stock Exchange ("AMEX").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

As of September 20, 1988, there were less than twenty (20) registered holders of the 13% Senior Subordinated Notes, due June 15, 2000 ("Senior Notes"). A review of the AMEX records indicates that since the original issuance of the Senior Notes in June 1986, trading volume has been relatively low. The Company believes that continued listing of the Senior Notes is too costly.

Any interested person may, on or before November 25, 1988, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-26014 Filed 11-9-88; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

U.S. Participation in the Harmonized System Committee of the Customs Cooperation Council

AGENCY: Office of the United States Trade Representative.

ACTION: Notification of procedures to implement sections 1209 and 1210 of the Omnibus Trade and Competitiveness Act of 1988.

SUMMARY: This notice is intended to describe procedures for implementing sections 1209 and 1210 of the Harmonized System subtitle of the Omnibus Trade and Competitiveness Act of 1988 (the Act) relating to U.S. participation in the Harmonized System Committee of the Customs Cooperation Council.

FOR FURTHER INFORMATION CONTACT: Barbara Norton, Office of GATT Affairs (202-395-5097).

Background Information

Subtitle B of title I of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418) provides for the approval and implementation of the International Convention on the Harmonized Commodity Description and Coding System (Convention) and its associated nomenclature (Harmonized System or HS). More specifically, the Act provides for congressional approval of United States accession to the Convention (section 1203), the enactment of the Harmonized Tariff Schedule of the United States (HTS) (section 1204) and the publication of foreign trade statistics in conformity with the HS nomenclature (section 1208). In addition, under section 1209, the United States Trade Representative (USTR) is made responsible for coordinating trade policy concerning the Convention. Section 1210 provides that, subject to the policy direction of the USTR, the Departments of Treasury and Commerce and the United States International Trade Commission (the Commission) shall have responsibility for formulating U.S. positions on technical and procedural issues relating to the Convention and for representing the United States government with respect thereto. The purpose of this notice is to describe the framework for implementing sections 1209 and 1210 of the Act.

Policy coordination and U.S. Government representation. The conference report on the Act cites the need to ensure a broad base of participation in the work relating to the HTS and the Convention. The USTR will assume leadership with respect to policy questions arising from the implementation of the Convention including coordination of matters for action by the Trade Policy Staff Committee, and the negotiation of issues arising under the dispute settlement provisions of the Convention. In accordance with section 1210 of the Act, the Treasury Department, represented by the Customs Service, the Commerce Department, represented by the Census Bureau, and the Commission (referred to below as "the three agencies") will jointly represent the U.S. government at the Customs Cooperation Council (the Council) with respect to matters relating to the Convention and, subject to the policy direction of USTR, will be primarily responsible for formulating U.S. positions on technical and procedural matters. The Customs Service representative will serve as head of the delegation at sessions of the Harmonized System Committee (HSC). As the agency primarily responsible for administering the tariff, the Customs Service will take the lead role in issues concerning the interpretation and application of the HS and will ensure that, to the extent consistent with judicial decisions and trade policy directives, U.S. classification treatment is consistent with uniform application of the HS at the international level. The Commission will lead the U.S. delegation to international working parties and HSC subcommittees responsible for considering amendments to the HS in order to keep the Harmonized System abreast of changes in technology and patterns of international trade and shall ensure that U.S. technical positions reflect the needs of the business community. The Census Bureau will assume leadership responsibility for the United States in international efforts in the Council with respect to promoting and achieving

consistency and comparability in statistical reporting.

Availability of information: Solicitation of public views. The Summary Records of past sessions of the Harmonized System Committee will be made available at the Nationl Technical Information Service, Department of Commerce.

Harmonized System Committee documents including the draft agenda of upcoming sessions will be made available at the Trade Advisory Center of the Department of Commerce.

In an effort to receive private sector views on current issues before the Harmonized System Committee, the Office of Tariff Affairs and Trade Agreements of the Commission will maintain a list of interested parties. The list will be referred to when making direct contracts for advise on pending matters. For inclusion on this list, interested parties should write to the United States International Trade Commission, Office of Tariff Affairs and Trade Agreements and indicate the HS chapters of interest.

Secretariat. The Commission, in its Office of Tariff Affairs and Trade Agreements, will serve as the secretariat to the three agencies with respect to activities under section 1210 of the Act, and in that capacity will receive inquiries and petitions for consideration by the agencies concerned.

Technical Proposals. The Act directs the Commission and the Secretaries of Commerce and of the Treasury to prepare, in connection with their responsibilities in the area of trade statistics arising under the Convention and under section 484(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1484 (e)), technical proposals to be submitted to the Council in connection with the administration of the Harmonized System. Among other things, the proposals are intended to assure that the U.S. contribution to this Convention recognizes the needs of the U.S. business community for a trade nomenclature reflecting sound principles of commodity identification, modern production methods, and current trading patterns and practices. Thus, the proposals may relate to issues concerning the interpretation of the nomenclature, or its amendment to reflect new technology or changes in patterns in international trade.

Such technical prposals may be initiated by the three agencies on their own initiative or at the request of interested government agencies or members of the public. After considering all available information (including the views of a functional advisory committee), and after consultation with other interested agencies, the three agencies jointly act to formulate U.S. government positions. Approved final technical proposals will then be submitted to the HSC for action.

Inquiries regarding U.S. exports. Inquiries relating to the classification of goods under the Statistical Classification of Domestic and Foreign Commodities (Schedule B) as well as routine inquiries concerning the tariff classification of goods in other countries should be addressed to the Commercial Rulings Division of the U.S. Customs Service, Washington, D.C. All other inquiries and complaints from interested parties concerning the HS treatment of articles produced in and exported from the United States will be considered by the three agencies which will review each such inquiry or complaint and take such actions or make such recommendations as may be consistent with U.S. export interests. These actions may include the formulation of technical proposals to be submitted to the HSC or the Council and expressing the position of the U.S. government on the particular technical or procedural matters raised, requests that the HSC provide information or guidance, or stepts toward the initiation of dispute settlement under article 10 of the Convention.

Dispute Settlement. The three agencies are also directed to establish procedures to ensure that the dispute settlement provisions in article 10 of the Convention are utilized to promote U.S. export interests. Article 10 provides that any dispute between contracting parties concerning the interpretation or application of the Convention is to be settled by negotiation between the contracting parties to the extent possible. If this cannot be accomplished, the parties (that is, the governments concerned) are to refer the dispute to the HSC for its consideration and recommendations. The HSC in turn is to refer irreconcilable disputes to the Council for its recommendations. Individual parties have no standing to initiate dispute settlement under the Convention. Thus, it is necessary for individuals or firms seeking to raise disputes with another contracting party to file inquiries or complaints with the U.S. government and to present, or assist in the collection of, any information relating to the dispute which may be required.

Accordingly, interested parties seeking to have the United States initiate dispute settlement procedures under the convention must file an inquiry or complaint. If the three agencies determine that such action is warranted, they will recommend to the USTR the initiation of bilateral negotiations with the other contracting party concerned. If unsuccessful or if resort to the other contracting party is deemed not to be appropriate, the U.S. delegate will invoke the dispute settlement procedures in the HSC and the Council. The inquirer or complainant will be informed of all steps taken and of any progress in resolving the matter.

Sandra J. Kristoff,

Chairwoman, Trade Policy Staff Committee.

[FR Doc. 88-25985 Filed 11-9-88; 8:45 am]

BILLING CODE 3190-01-M

Generalized System of Preferences (GSP), Public Hearings for the 1988 Annual Review, Change of Hearing Location

Notice is hereby given of a change in location for the GSP Public hearings to be held on petitions accepted for review in the 1988 Annual Review, and the addition of one day to the hearings. These hearings are scheduled for November 15–18. **Federal Register** notices regarding these hearings have been published on a number of occasions. The document numbers and the dates of these notices are as follows:

FR Doc. 88-23939 (Oct. 18)
FR Doc. 88-23176 (Oct. 7)
FR Doc. 88-20742 (Sept. 9)
FR Doc. 88-19730 (Aug. 30)
FR Doc. 88-16303 (July 20)

The GSP Public Hearings will be moved from the Commerce Department Auditorium to the Main Commission Hearing Room of the International Trade Commission, 500 E Street, SW., Washington, DC.

The hearing will be open to the press, but closed to any video cameras. No such cameras will be permitted in the building. Any interested news organization may contact Kelly Shipp for further information at (202) 395-3230.

Sandra J. Kristoff

Chairwoman, Trade Policy Staff Committee.

[FR Doc. 88-26038 Filed 11-9-88; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Motor Carrier Advisory Committee. Subcommittee on Government And Taxation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the Subcommittee on Government and Taxation of the National Motor Carrier Advisory Committee will hold a meeting on November 28, 1988, in Washington, DC, at the U.S. Department of Transportation Headquarters, 400 7th Street, SW., Washington, DC. The meeting will begin at 9:30 a.m. in Room 4200 and it is open to the public.

The agenda will include a discussion of ways to promote greater uniformity among State motor carrier requirements, particularly the furtherance of the National Governors Associations Consensus Agenda on taxation and registration issues. In Addition, the Subcommittee will review the status of the National Economic Commission's recommendations to the President as they may relate to transportation.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph S. Toole, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HOA–1, Room 4218, 400 7th Street, SW., Washington, DC 20590, (202) 366–2238, office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on: November 4, 1988.

Robert E. Farris,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 88–26010 Filed 11–9–88; 8:45 am]

BILLING CODE 4910–22–M

Saint Lawrence Seaway Development Corporation

Advisory Board; 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 the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 1:00 p.m., December 8, 1988, at the Corporation's Washington, DC Office at 400 7th Street, SW., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks, Consideration of Minutes of Past Meeting; Review of Programs; Business, Closing Remarks.

Attendance at meeting is open to the interest public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than November 30, 1988, Paul A. Maroun, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW, Washington, DC 20590; 202/366–0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC on November 4, 1988.

Paul A. Maroun,

Advisory Board Liaison.

[FR Doc. 88–26086 Filed 11–9–88; 8:45am]

BILLING CODE 4910–61–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series No. 28–88]

Treasury Notes of November 15, 1991, Series U–1991

Washington, November 3, 1988.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,500,000,000 of United States securities, designated Treasury Notes of November 15, 1991, Series U–1991 (CUSIP No. 912827 WV O), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated November 15, 1988, and will accrue interest from that date, payable on a semiannual basis on May 15, 1989, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239–1500, prior to 1:00 p.m., Eastern Standard time, Tuesday, November 8, 1988. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 7, 1988, and received no later than Tuesday, November 15, 1988.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting

demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, November 15, 1988. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 10, 1988. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, November 15, 1988. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 88-26147 Filed 11-8-88; 10:49 am]

BILLING CODE 4810-40-M

[Department Circular Public Debt Series No. 29-88]

Treasury Notes of November 15, 1988, Series D-1998

Washington, November 3, 1988.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,500,000,000 of United States securities, designated Treasury Notes of November 15, 1998, Series D-1998 (CUSIP No. 912827 WW 8), hereafter referred to as Notes. The Notes will be sold at auction, with

bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated November 15, 1988, and will accrue interest from that date, payable on a semiannual basis on May 15, 1989, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 1998, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Standard time, Wednesday, November 9, 1988. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 8, 1988, and received no later than Tuesday, November 15, 1988.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Resreve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair detemination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, November 15, 1988. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 10, 1988. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, November 15, 1988. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Note to be separated into the components described in Section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semi-annual interest payment of $1,000 or a multiple of $1,000. Attachment B to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A Note may be separated into its components at any time from the issue date until maturity. A request of separation must be made to the Federal Reserve Bank maintaining the account for the Notes. Once a Note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payments on the Notes.

7.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A

CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Notes of November 15, 1998, Series D–1998, CUSIP No. 912827 WW 8

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series D–1998 due

November 15, 1998, CUSIP No. 912820 AQ O.

INTEREST COMPONENTS

Designation	CUSIP number 912833
Treasury Interest (TINT) due:	
May 15, 1989	EN 6
November 15, 1989	EP 1
May 15, 1990	EQ 9
November 15, 1990	ER 7
May 15, 1991	ES 5

INTEREST COMPONENTS—Continued

Designation	CUSIP number 912833
November 15, 1991	ET 3
May 15, 1992	EU 0
November 15, 1992	EV 8
May 15, 1993	EW 6
November 15, 1993	EX 4
May 15, 1994	EY 2
November 15, 1994	EZ 9
May 15, 1995	FA 3
November 15, 1995	FB 1
May 15, 1996	FC 9

INTEREST COMPONENTS—Continued

Designation	CUSIP number 912833
November 15, 1996	FD 7
May 15, 1997	FE 5
November 15, 1997	FF 2
May 15, 1998	FG 0
November 15, 1998	FH 8

BILLING CODE: 4810-40-M

ATTACHMENT R

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 88-26148 Filed 11-8-88; 10:49 am]

BILLING CODE 4810-40-C

VETERANS' ADMINISTRATION

Agency Information Collection Under OMB Review

AGENCY: Veterans' Administration.

ACTION: Notice.

The Veterans' Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The responsible department or staff office; (2) the title of the collection(s); (3) the agency form number(s), if applicable; (4) a description of the need and its use; (5) how often the information collection must be completed, if applicable; (6) who will be required or asked to report; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to respond; and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Department of Veterans' Benefits (203C), Veterans' Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2744.

Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: November 3, 1988.

By direction of the Administrator.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Extension

1. Department of Veterans' Benefits.
2. Designation of Certifying Official(s).
3. VA Form 22–8794.
4. The form notifies the VA of the individual who may certify reports of enrollment and pursuits of training on behalf of a training institution or establishment.
5. On occasion.
6. State or local governments; businesses or other for-profit; non-profit institutions; small businesses or organizations.
7. 3,200 responses.
8. 534 hours.
9. Not applicable.

[FR Doc. 88–25981 Filed 11–9–88; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 218
Thursday, November 10, 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).

COMMISSION ON CIVIL RIGHTS

November 7, 1988.

PLACE: 1121 Vermont Avenue NW., Room 516, Washington, DC 20424.

DATE AND TIME: Friday, November 18, 1988, 9:00 p.m.–5:00 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda.
II. Approval of Minutes of October Meeting.
III. *SAC Recharter:* Tennessee.
IV. *Interim Appointments:* Colorado, Hawaii, Idaho, and Iowa.
V. Staff Director's Report.
A. Status of Earmarks.
B. Personnel Report.
C. Activity Report.
VI. Future Agenda Items.
VII. Executive Session closed to the public at the end of the public meeting to discuss proposed draft report on Medical Discrimination against Children with Disabilities.

PERSON TO CONTACT FOR FURTHER INFORMATION: John Eastman, Press and Communications Division, (202) 376–8312.

William H. Gillers,

Solicitor.

[FR Doc. 88–26146 Filed 11–8–88; 12:22 pm]

BILLING CODE 6335–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 1:30 p.m., November 21, 1988.

PLACE: National Finance Center, 4277 W. Poche Court, Conference Room, New Orleans, Louisiana.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of last meeting.
2. Thrift Savings Plan activities report by Executive Director.
3. Review of investment performance for the third quarter.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, or Catherine Ball, Deputy Director, Office of External Affairs, (202) 523–5660.

Date: November 7, 1988.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 88–26134 Filed 11–8–88; 9:03 am]

BILLING CODE 6760–01–M

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting

TIME AND DATE: The meeting will commence at 2:30 p.m. on Friday, November 18, 1988, and continue until 5:00 p.m.

PLACE: The Horton Grand Hotel, Three Eleven Island Avenue, Hahn Cosmopolitan Theater, San Diego, California 92101.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes—January 28–29, 1988.
3. Consideration of Proposed Revisions to Part 1626, Restrictions on Legal Assistance to Aliens.

Discussion and Public Comment follow each item.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863–1839.

Date Issued: November 8, 1988.

Maureen R. Bozell,

Secretary.

[FR Doc. 26218 Filed 11–8–88; 3:46 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: A closed Executive Session will commence at 5:30 p.m. on Friday, November 18, and continue until 6:30 p.m. in The Pete Wilson Suite. The open meeting will commence at 9:00 a.m. on Saturday, November 19, 1988, and continue until 2:30 p.m.

PLACE: The Horton Grand Hotel, The Pete Wilson Suite (Executive Session), Hahan Cosmopolitan Theater (Open Session), Three Eleven Island Avenue, San Diego, California 92101.

STATUS OF MEETING: Open (A portion of the meeting is to be closed to discuss personnel, personal, litigation, and investigatory matters under The Government in the Sunshine Act (5 U.S.C. 552b (c) (2), (6), (7), (9)(B), and (10)) and 45 CFR 1622.5 (a), (e), (f), (g), and (h)).

MATTERS TO BE CONSIDERED:

Executive Session (Closed)

1. Personnel and Personal Matters
2. Litigation and Investigation Matters

Board of Directors Meeting (Open)

1. Approval of Agenda
2. Approval of Minutes—August 26, 1988
3. Report from the President
4. Report from the Operations and Regulations Committee and Consideration of Proposed Revisions to Part 1626, Restrictions in Legal Assistance to Aliens
5. Discussion of Client Training

Discussion and Public Comment follow each item.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863–1839.

Date Issued: November 8, 1988.

Maureen R. Bozell,

Secretary.

[FR Doc. 88–26219 Filed 11–8–88; 3:46 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Audit and Appropriations Committee Meeting

TIME AND DATE: The meeting will commence at 2:30 p.,m., or immediately following the previous meeting, on Saturday, November 19, 1988, and continue until 5:00 p.m.

PLACE: The Horton Grand Hotel, Hahn Cosmopolitan Theater, Three Eleven Island Avenue, San Diego, California 92101.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes—August 26, 1988
3. Review of FY 1988 Monthly Expenditures through September 30, 1988
4. Review of FY 1989 Appropriations
5. Presentations from the Field on FY 1990 Proposed LSC Budget Request.

Discussion and Public Comments follow each item.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863–1839.

Date Issued: November 8, 1988.

Maureen R. Bozell,

Secretary.

[FR Doc. 88–26220 Filed 11–8–88; 3:46 pm]

BILLING CODE 7050–01–M

Corrections

Federal Register
Vol. 53, No. 218
Thursday, November 10, 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 AGRICULTURE

Office of the Secretary

Members of Performance Review Boards

Correction

In notice document 88-25627 appearing on page 44639 in the issue of Friday, November 4, 1988, make the following correction:

In the first column, in the **EFFECTIVE DATE** line, "November 11" should read "November 4".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 88-113]

Disqualification Under the Horse Protection Act

Correction

In notice document 88-20061 appearing on page 34134 in the issue of Friday, September 2, 1988, make the following correction:

In the third column, in the table, under "Disqualification period", in the second line, "11-80-1989" should read "11-30-1989".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[OPTS-84014B; FRL-3439-9]

Health and Safety Data Reporting Period Terminations

Correction

In rule document 88-20002 beginning on page 38642 in the issue of Friday, September 30, 1988, make the following corrections:

1. On page 38642, in the first column, under **DATES**, in the 5th and 6th lines, insert the date "October 14, 1988."; in the 8th, 9th and 10th lines, insert the date "October 31, 1988."; and in the 11th and 12th lines, insert the date "December 29, 1988."

§ 716.120 [Corrected]

2. On page 38648, in § 716.120(a), in the table, under "Substance", in the 31st entry, "acetyl-amino" should read "acetylamino".

3. On page 38649, in the same section, in the same table, under "Effective Date", in the seventh entry, "6/20/98" should read "6/20/88"; and in the corresponding entry, under "Sunset Date", "6/20/98" should read "6/20/88".

4. On page 38650, in § 716.120(c), in the table, under "CAS No. (examples for category)", in the 26th entry, "26636-91-1" should read "26636-01-1".

5. On page 38651, in the same section, in the same table, under "Effective Date", in the first through seventh entries, the "/" appearing after each date should be removed.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30290; FRL-3452-8]

Certain Companies; Applications to Register Pesticide Products; Sandoz Crop Protection Corp., et al.

Correction

In notice document 88-21777 beginning on page 37866 in the issue of Wednesday, September 28, 1988, make the following corrections:

1. On page 37867, in the second column, in paragraph 3, in the first line, "Mobray" should read "Mobay"; and the fifth line should read "Alpha-[2-(4-chlorophenyl)ethyl-alpha-".

2. On the same page, in the same column, in paragraph 4, in the first line, "Mobray" should read "Mobay"; the fifth line should read "dimethylethyl)-1*H*-1,2,4-triazole-1-"; and in the ninth line, "domestic" was misspelled.

3. On the same page, in the same column, in paragraph 5, in the first line, "Mobray" should read "Mobay"; in the second line, "Folicur" should read "Folicur®"; in the fifth line, "dimethylethyl" was misspelled; and in the sixth line, "ethanol" was misspelled.

4. On the same page, in the same column, in paragraph 6, in the second line, "Tycor DF" should read "Tycor® DF"; and in the fifth line, "dimethylethyl" was misspelled.

5. On the same page, in the same column, in paragraph 7, in the first line, "Mobray" should read "Mobay"; in the third line, "Tycor Technical" should read "Tycor® Technical"; and in the fifth line, "dimethylethyl" was misspelled.

6. On the same page, in the same column, in paragraph 8, in the fourth line, "Ignite Herbicide" should read "Ignite® Herbicide".

7. On the same page, in the third column, in paragraph 9, the second line should read "Product name: Ignite® Herbicide. Herbicide. Active"; in the fifth line "16.23%" should read "16.22%"; and in the ninth line "PN 23" should read "PM 23".

8. On the same page, in the same column, in paragraph 10, in the second line, "Ignite Technical" should read "Ignite® Technical".

9. On the same page, in the same column, in paragraph 11, in the second line, "Ignite" should read "Ignite®"; and in the same line, "Manufacturing" was misspelled; in the fourth line, "amino" was misspelled; and in the seventh line, "only" was misspelled.

20. On the same page, in the same column, in paragraph 12, in the first line, "E. I, Du Pont" should read "E. I. Du Pont"; in the second line, "Products" was misspelled; in the third line, "Walkers" should read "Walker's"; in the fifth line, "Du Pont Londax Herbicide" should read "Du Pont Londax® Herbicide"; and the sixth line should read "ingredient: Methyl 2-[[[[[[4,6-dimethoxy".

21. On the same page, in the same column, in paragraph 13, in the second

line, "Du Pont Express" should read "Du Pont Express®"; the fourth line should read "Methyl 2-[[[[*N*-4-methoxy-6-methyl-"; and in the eighth line, "selective" was misspelled.

22. On the same page, in the same column, in paragraph 14, in the fourth line, "Phenyl" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Parts 524, 525, and 529

Employment of Workers With Disabilities Under Special Certificates

Correction

In proposed rule document 88-25125 appearing on page 43899 in the issue of Monday, October 31, 1988, make the following correction:

In the second column, under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the 15th line, "October 31, 1988" should read "November 15, 1988".

BILLING CODE 1505-01-D

federal register

Thursday
November 10, 1988

Part II

Federal Policy for the Protection of Human Subjects; Notice and Proposed Rules

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Federal Policy for the Protection of Human Subjects

AGENCY: Office of Science and Technology Policy, Executive Office of the President.

ACTION: Notice of Federal Policy for Protection of Human Subjects.

SUMMARY: The Office of Science and Technology Policy intends to accept as the Final Model Federal Policy for the Protection of Human Subjects the common rule to be promulgated after consideration of public comment on the Notice of Proposed Rulemaking set forth in this part of this issue of the **Federal Register**. The proposed common rule was developed by the Interagency Human Subjects Coordinating Committee of the Council on Science, Engineering and Technology, in response to public comment on the Notice of Proposed Model Policy for Department and Agency implementation published in the **Federal Register** on June 3, 1986 (51 FR 20204).

Note that the Central Intelligence Agency is required by Executive Order 12333 to conform to the guidelines issued by the Department of Health and Human Services (HHS).

ADDRESS: Requests for additional information should be addressed to Dr. Joan P. Porter, Staff Director, Interagency Human Subjects Coordinating Committee, Building 31, Room 4B09, Bethesda, Maryland 20892. Telephone: 301–496–7005.

William R. Graham,

Director, Office of Science and Technology Policy, Executive Office of the President.

[FR Doc. 88–25551 Filed 11–9–88; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF AGRICULTURE

7 CFR PART 1C

DEPARTMENT OF ENERGY

10 CFR PART 745

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR PART 1230

DEPARTMENT OF COMMERCE

15 CFR PART 27

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR PART 1028

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR PART 225

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR PART 60

DEPARTMENT OF JUSTICE

28 CFR PART 46

DEPARTMENT OF DEFENSE

32 CFR PART 219

DEPARTMENT OF EDUCATION

34 CFR PART 97

VETERANS' ADMINISTRATION

38 CFR PART 16

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 26

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR PART 46

NATIONAL SCIENCE FOUNDATION

45 CFR PART 690

DEPARTMENT OF TRANSPORTATION

49 CFR PART 11

Federal Policy for the Protection of Human Subjects

AGENCIES: United States Department of Agriculture, Department of Energy, National Aeronautics and Space Administration, Department of Commerce, Consumer Product Safety Commission, Agency for International Development, Department of Housing and Urban Development, Department of Justice, Department of Defense, Department of Education, Veterans' Administration, Environmental Protection Agency, National Science Foundation, Department of Health and Human Services, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth a common Federal Policy for the Protection of Human Subjects (Model Policy) accepted by the Office of Science and Technology Policy and proposes the adoption of that Policy in regulation by each of the listed Departments and Agencies. A Proposed Model Federal Policy published on June 3, 1986 (51 FR 20204) was revised in response to public comments. The Policy as revised is now set forth as a common Notice of Proposed Rulemaking. Additional public comments are solicited concerning adoption of the Policy by each of the listed Departments and Agencies and the proposed departures from the Policy described herein. For related documents, see other sections of this part of this **Federal Register** issue.

DATE: To be assured of consideration, comments must be in writing and must be received on or before 5:00 p.m. on January 9, 1989.

ADDRESSES: Please send comments or requests for additional information to: Dr. Joan P. Porter, Office for Protection from Research Risks, National Institutes of Health, Building 31, Room 4B09, Bethesda, MD 20892. Comments directed toward adoption of the common Federal Policy by a particular Department or Agency should clearly identify that Department or Agency. Comments should refer to specific sections in the proposed regulations. Comments received will be available for public inspection at the National Institutes of Health, Building 31, Room 4B09, Bethesda, Maryland, from 9:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays.

PAPERWORK REDUCTION ACT REQUIREMENTS: Sections ____.103(b); ____.109(d); ____.113; ____.115; ____.116; and ____.117 contain information collection requirements subject to approval by the Office of Management and Budget under the terms of the Paperwork Reduction Act. Comments on these requirements should be submitted to Dr. Joan Porter at the address noted and to Mr. Richard Eisinger, Office of Management and Budget, Executive Office of the President, Room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Dr. Joan P. Porter, (301) 496–7005.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the common Notice of Proposed Rulemaking is to request public comment on implementation of a common Federal Policy (Model Policy) for the protection of human subjects of research conducted, supported or regulated by the following Federal Departments and Agencies: United States Department of Agriculture, Department of Energy, National Aeronautics and Space Administration, Department of Commerce, Consumer Product Safety Commission, Agency for International Development, Department of Housing and Urban Development, Department of Justice, Department of Defense, Department of Education, Veterans' Administration, Environmental Protection Agency, National Science Foundation, Department of Health and Human Services, Department of Transportation. Each of these Departments and Agencies would adopt the common rule in total except as indicated in the departures for the Department of Education published herein, as regulations to be codified as listed above.

The Food and Drug Administration (FDA) Notice of Proposed Rulemaking to modify current regulations to conform to the Federal Policy is presented elsewhere in this part. Public comment is requested concerning the FDA Notice of Proposed Rulemaking. Comment regarding the Department of Education departures is also solicited.

Adoption of the common Federal Policy by these Departments and Agencies will implement a recommendation of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research which was established on November 9, 1978, by Pub. L. 95–622. One of the charges to the President's Commission was to report biennially to the President, the Congress, and appropriate Federal Departments and Agencies on the protection of human subjects of biomedical and behavioral research. In carrying out that charge, the President's Commission was directed to conduct a review of the adequacy and uniformity (1) of the rules, policies, guidelines, and regulations of all Federal Departments and Agencies regarding the protection of human subjects of biomedical or behavioral research which such departments and agencies conduct or support, and (2) of the implementation of

such rules, policies, guidelines, and regulations by such agencies, such review to include appropriate recommendations for legislation and administrative action.

In December 1981 the President's Commission issued its *First Biennial Report on the Adequacy and Uniformity of Federal Rules and Policies, and their Implementation, for the Protection of Human Subjects in Biomedical and Behavioral Research, Protecting Human Subjects.*

In accord with Pub. L. 95–622, each Federal Department or Agency which receives recommendations from the President's Commission with respect to its rules, policies, guidelines or regulations, must publish the recommendations in the **Federal Register** and provide an opportunity for interested persons to submit written data, views and arguments with respect to adoption of the recommendations. On March 29, 1982 (47 FR 13272–13305), the Secretary, HHS published the recommendation on behalf of the affected Departments and Agencies.

In May 1982 the Chairman of the Federal Coordinating Council for Science, Engineering, and Technology (FCCSET), appointed an *Ad Hoc* Committee for the Protection of Human Research Subjects under the auspices of the FCCSET. The Committee, chaired by Dr. Edward N. Brandt, Jr., Assistant Secretary for Health, Department of Health and Human Services (HHS), was composed of the representatives and ex-officio members of affected Departments and Agencies. In consultation with the Office of Science and Technology Policy (OSTP) and the Office of Management and Budget, the *Ad Hoc* Committee, after considering all public comments, developed responses to the recommendations of the President's Commission. After further review and refinement, OSTP responded on behalf of all the affected Department and Agency heads to the recommendations of the President's Commission, including the recommendation that:

> The President should, through appropriate action, require that all federal departments and agencies adopt as a common core the regulations governing research with human subjects issued by the Department of Health and Human Services (codified at 45 CFR 46), as periodically amended or revised, while permitting additions needed by any department or agency that are not inconsistent with these core provisions.

The *Ad Hoc* Committee agreed that uniformity is desirable among Departments and Agencies to eliminate unnecessary regulation and to promote increased understanding and ease of compliance by institutions that conduct federally supported or regulated research involving human subjects. Therefore, the *Ad Hoc* Committee developed a Model Federal Policy, which applies to research involving human subjects that is conducted, supported or regulated by Federal Departments and Agencies. In accordance with the Commission's recommendation, the Model Federal Policy is based on Subpart A of the regulations of HHS for the protection of human research subjects (45 CFR Part 46). The Proposed Model Federal Policy developed by the *Ad Hoc* Committee was modified by OSTP to enhance uniformity of implementation among the affected Federal Departments and Agencies and to provide consistency with other related policies. The revised Model Federal Policy was concurred in by all affected Federal Departments and Agencies in March 1985.

An Interagency Human Subjects Coordinating Committee was chartered in October 1983 under the auspices of FCCSET to follow the *Ad Hoc* Committee. It is composed of representatives of all Federal Departments and Agencies that conduct, support or regulate research involving human subjects. The Committee is advisory to Department and Agency Heads and, among other responsibilities, will evaluate the implementation of the Model Federal Policy and recommend modification as necessary.

On June 3, 1986, OSTP published for public comment in the **Federal Register** (51 FR 20204) a Proposed Model Federal Policy for Protection of Human Subjects and Response to the *First Biennial Report* of the President's Commission. Over 200 written comments were received concerning the publication. The Interagency Human Subjects Coordinating Committee considered these comments in the revisions of the common Federal Policy which is proposed here for adoption by each of the Departments and Agencies listed. Response to the public comments and discussion of revisions made in the Proposed Model Federal Policy follow.

General Description of Responses

Two hundred and thirty four comments were received during the sixty day period following publication of the Proposed Model Federal Policy for Protection of Human Subjects [51 FR 20204]. Approximately 40 comments came in after the close of the public comment period. Of all the responses 192 came from medical schools and other academic institutions; 15 were from professional associations; 12 from Federal, state or county agencies, two from industry, and two from members of the public. Seventeen comments came from individuals who identified themselves as belonging to Institutional Review Boards (IRBs), and 36 were research administrators.

Almost unanimously, the respondents enthusiastically supported the concept of a Model Federal Policy. A few noted that the June 3 **Federal Register** publication of the Proposed Model Federal Policy did not address HHS intentions on retaining 45 CFR Part 46, Subpart B, concerning fetuses, pregnant women and human *in vitro* fertilization involved in research; Subpart C, concerning additional protections for prisoners as research subjects; and Subpart D, concerning children. HHS intends to retain Subparts B, C and D. The Notices of Proposed Rulemaking published here are the proposed replacement of the current Subpart A of the HHS policy. It should also be noted that the Department of Justice, Bureau of Prisons, intends to retain additional protections for prisoners codified at 28 CFR Part 512.

Section ——.103—Sixty Day Grace Period

The vast majority of the comments (223 of 234) addressed the "60 day grace period" which is included in HHS regulations at 45 CFR 46.103(f) but not in the Proposed Model Federal Policy. The grace period is the time interval between an institution's submission of a research grant application or contract proposal to HHS and certification of the institution's IRB review and approval under current HHS regulations. Institutions that have Multiple Project Assurances on file with HHS have 60 days to finish IRB review and notify HHS. Two hundred and nineteen respondents disagreed with the deletion of the grace period from the Model Federal Policy and asked that the grace period be reinstated in the final Model Federal Policy. Summaries of their justifications are given below.

The arguments in favor of retaining the grace period are primarily based on the HHS time frame for preparation and review of research grant applications or contract proposals, the competitiveness of the review process and the quality of IRB review. For HHS-sponsored research there is usually about a nine month interval between the date an application is received and the earliest date an award can be made. For new applications, especially those which are submitted in response to a HHS Request for Applications, the time for preparation of the proposal is only 30 to 90 days. Some respondents indicated that this time frame is much different

from the pace of biomedical science in which new publications, information or discoveries can make a methodology or approach obsolete within a few months. This discrepancy results in pressure upon principal investigators to revise and amend applications and proposals up until the last day before submission so as to have the best chance of success in the review process. Since an IRB cannot approve a tentative protocol, but must wait until the proposal is made final, requiring its review before the receipt date shortens an already brief preparation period and may adversely affect the quality of proposed research. Secondly, the requirement for prior IRB approval could adversely affect the quality of review. The IRB would have to be convened on short notice with possible reduced attendance by its members. This may well diminish the quality of review and create additional pressure on the IRB to approve proposals based upon limited information.

Arguments in favor of omitting the grace period are also based on quality of IRB review. These comments indicated that, if IRB review took place *after* a fundable priority score were obtained, the IRB might feel pressured to approve a questionable activity. In addition, the difficulties of tracking down an application which is moving through the review process to append an IRB certification of approval creates an administrative burden.

Response: The Interagency Human Subjects Coordinating Committee has revised § ——.103(f) [§ ——.103(g) in the Proposed Model Federal Policy] to accommodate the concerns raised in the public comments. Under the revised section, the certification of IRB review and approval must accompany the application unless the Department or Agency specifies a later date for submission of the certification.

Although HHS intends to amend its current regulations to incorporate the language of the Model Federal Policy, it will retain a "grace period" for institutions that have multiple project assurances and announce the period through advisories, e.g. *OPRR Reports* or *Public Health Service Guide to Grants and Contracts,* which are routinely received by institutions. The "grace period" is the time between submission of an application for research support and submission of certification of IRB review and approval of the research proposed. Other Departments and Agencies will advise institutions of appropriate timing of certification through similar publications.

Other Comments and Revisions

While the Interagency Committee considered each comment carefully, the Committee made changes in the Proposed Model Federal Policy only when it decided that the suggestions would accomplish the following: strengthen the protections for human subjects; clarify the intention or requirements of the Model Federal Policy; or facilitate the administrative processes required by the Model Federal Policy while maintaining or increasing human subjects protections. Areas in which there were a number of comments are highlighted below together with the rationale for the Interagency Committee's incorporating changes or retaining the provisions addressed in these comments.

Sections ——.101(b)(1) and ——.101(b)(2)

Public Comments: One respondent suggested that no exemptions should be allowed if vulnerable subjects are involved. Concerning § ——.101(b)(2), an exemption for certain types of research involving educational tests, survey procedures, interview procedures or observation of public behavior, one respondent noted that no mention is made of the potential impact that certain educational test surveys or interview procedures might have on children or adolescents and the Model Federal Policy should include consideration of this. To a few others, the rationale for the modifications was not clear. One response from an IRB recommended that no study involving educational tests where identifiers are recorded should be exempt from review and suggested that there are risks that are significant in addition to criminal or civil liability noted in this exemption when educational tests are used with identifiers. Another respondent thought that the Proposed Model Federal Policy language in the exemptions lessened human subjects protections. Similarly, another response suggested that the language be broadened to show that harming an individual's reputation in the community was a risk as well as financial standing and employability. Another comment indicated that if interviews yield identifiable data, regardless of the content, the research should be reviewed by an IRB.

Response: In response, the Interagency Human Subjects Coordinating Committee modified the language in § ——.101(b)(2)(ii) of the Model Federal Policy to include the reputation of an individual as a consideration in determining whether research could be exempt. The Committee notes also that the Model Federal Policy exemptions at § ——.101(b)(1) and § ——.101(b)(2) will make *less* research exempt than now under 45 CFR 46.101(b)(3) and (b)(4).

Section ——.101(b)(3)

Public Comment: Section ——.101(b)(3) exempts certain research not covered under § ——.101(b)(2), involving use of educational tests, survey procedures, interview procedures or observation of public behavior. Several respondents believed the wording here was unexplained, unclear, and possibly weakened protections for human subjects from those afforded by 45 CFR 46.101(b). A few other respondents felt that further defintions would clarify the provisions. One response from an IRB indicated that few IRB members would be able to judge if this exemption applies in the absence of further legal guidance and that the exemption should be reconsidered.

Response: The Interagency Human Subjects Coordinating Committee notes that the exemptions as § _____.101(b)(2) and § _____.101(3) of the Model Federal Policy represent a consolidation of the exemptions at 45 CFR 46.101(b)(2), (3) and (4) of the current HHS regulations. The added portion at § _____.101(b)(3)(ii) of the Model Federal Policy indicates that some types of research involving the use of educational tests, survey procedures, interview procedures or observation of public behavior are exempt if a Federal statute requires without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter. The Department of Justice has indicated that 42 U.S.C. 3789(g) is such a statute. The Department of Education intends to take a departure from the Model Federal Policy at § _____.101(b)(3)(ii). The departure pertains only to research involving the use of educational tests, survey procedures, interview procedures, or observation of public behavior, conducted under a program subject to the General Education Provisions Act and to the specific protections provided under that Act to participants in programs administered by the Department of Education.

Section _____.101(b)(6)

Public Comment: The proposed § _____.101(b)(6) contains an exemption not found in 45 CFR Part 46 for taste testing. Seven respondents endorsed the new exemption, but one of these suggested the inclusion of testing

involving already broadly marketed food containing approved types and levels of additives, unless quantities are limited. Another comment from an IRB suggested that the provisions on taste testing should require confidentiality.

Response: The Interagency Human Subjects Coordinating Committee modified exemption § _____.101(b)(6) to add that consumer acceptance studies are also included in the exemption. Also added to the exempton is a clarification that the food may contain an ingredient at or below the level and for a use found to be safe or an agricultural chemical or environmental contaminent at or below the level and for a use found to be safe by the FDA or approved by the Environmental Protection Agency (EPA) or the Food Safety Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA). This clarification is necessary because under the Food, Drug and Cosmetic Act, an approval of the use of a food additive sets forth not only the level at which the substance may be added, but also the technical effect for which it may be added [e.g., as a preservative) and the types of food to which it may be added [e.g., baked goods). Note that the exemption is not intended to apply to taste tests and quality evaluation studies if (1) a food ingredient is being tested, and (2) the test substance is *not* on the FDA's Generally Recognized as Safe (GRAS) list; not a permitted food additive as tested; not normally found in food at the concentration being tested; is a pesticide; or contains a chemical residue for which the acceptable level has not been established by the FDA, the EPA and the FSIS of the USDA.

Section _____.101(h)

Public Comment: This concerns research in foreign countries. One respondent endorsed this provision; another suggested that the IRB, rather than the Department or Agency Heads, should determine whether protections for subjects in foreign countries are at least equivalent to those provided in the Proposed Model Federal Policy.

Response: No change has been made in this Section. The Interagency Committee concludes that there is a need for oversight at the federal level concerning protections for subjects in foreign countries.

Section _____.102

Twelve respondents addressed the distinction between "regulated research" and research that is "conducted or supported" by Federal Agencies or Departments. (See § _____.102 for a definition or regulated research.) Historically, one regulatory agency, the FDA, has relied on inspections of research projects to ensure compliance with Federal regulations regarding protection of human subjects. On the other hand, Departments and Agencies which sponsor research (e.g., HHS) have a system that requires that awardee institutions submit an assurance of compliance (assurance document) to the awarding Department or Agency which must be approved prior to the funding of research involving human subjects.

Of the 12 comments about this distinction, 11 argued against preserving the distinction. One respondent asserted that the continued distinction could be maintained without creating any problems for an institution that is both supported and regulated. The other respondents felt that the continued distinction was contrary to the aims of uniformity and consistency of the Model Federal Policy, and that it created an unnecessary administrative burden on institutions that must comply with two sets of procedures. One respondent felt that the administrative distinctions were not burdensome and that the distinction could be maintained without problems for institutions at which both federally supported and regulated research are conducted.

Response: The Interagency Human Subjects Coordinating Committee considered these comments but determined that the Model Federal Policy should retain the distinction between "regulated research" and research that is "conducted or supported" by Federal Departments or Agencies. This distinction is necessary because "regulated research" is often privately financed by an array of sponsors ranging in size from multinational corporations to individual physicians and is conducted at a variety of locations ranging from large university hospitals to community hospitals to physicians' offices. The provisions for regulated research, therefore, must accommodate the diverse needs of those engaging in regulated research while also ensuring that human subjects are adequately protected. Requiring all sponsors to negotiate assurances would place a significant burden on many sponsors involved in regulated research, especially those engaged in research with a small number of patients in small institutions. For example, under the present regulatory structure, FDA will permit an investigational drug to be used by a physician on one patient for a treatment use under a treatment investigational new drug protocol or application (IND). For such a physician, the institution (if there is one), and the government, the assurance system would require a significant expenditure of time with little gain. Under the existing system, which is not unduly burdensome, the physician must obtain IRB approval and informed consent before administering the investigational drug. Absent Federal support, however, he or she would not be required to negotiate the assurance set forth in § _____.103 of the Model Federal Policy. Eliminating the distinction between "regulated research" and federally conducted or supported research would mean that the physician would be compelled to learn about the assurance system and then negotiate and file an assurance, even if the investigational drug were to be given once to only one person. Consequently, the needs of small institutions and investigators are best met through the methods presently employed.

In addition, it should be noted that, contrary to the assertions made in several comments, the distinctions made for regulated research do not compel large institutions where research is regularly conducted to satisfy two different sets of regulations. A common set of provisions concerning IRBs and human subject protections apply to regulated research and to research conducted or supported by Federal Departments or Agencies, and this will continue to be the case.

Thus, the distinction for regulated research and federally supported or conducted research in the Model Federal Policy embodies the most effective and efficient manner for ensuring that regulated research is conducted in a manner that will assure the protection of human subjects.

Section _____.102(g)

Public Comment: One respondent indicated that the term "IRB" should be defined.

Responses: A definition of IRB is now included in § _____. 102(g): "IRB means an institutional review board established in accord with and for the purpose expressed in the Model Federal Policy."

Section _____.103(a)

Several public comments indicated that this section is confusing with regard to (1) with whom an institution should file an assurance; (2) to whom an institution should report modifications or amendments to existing assurances; and (3) to whom an institution should report adverse effects or acts of noncompliance [particularly § _____.103(b)(3), (d), (e)]. Reporting

some changes through OPRR was suggested as a possibility.

Response: The Interagency Human Subjects Coordinating Committee redrafted § _____.103 to place in a more prominent position the provision found in § _____.103(f) of the Proposed Model Federal Policy, which indicates that individual Department and Agency Heads *shall* accept the existence of a current assurance, appropriate for the research in question, on file with OPRR and approved for federalwide use by that office. When this type of assurance is used, all reports, except certification, required by the Model Federal Policy, must be submitted to OPRR as well as to the appropriate Department and Agency Heads.

In § _____.103(b)(3), an addition has been made to clarify that changes in IRB membership are reported by institutions to the appropriate Department or Agency head unless, in accord with § _____.103(a), the existence of an HHS approved assurance is accerpted in lieu of submission of an assurance. In this case, changes in IRB membership are reported directly to OPRR.

Section _____.103(b)(5)

Public Comment: Several comments addressed the requirements for § _____.103(b)(5), written procedures to ensure prompt reporting to the IRB, appropriate institutional officials, and the Department of Agency Head of any unanticipated problems or scientific misconduct involving risks to human subjects or others; any allegation or finding of serious or continuing noncompliance with the Federal Model Policy or the requirement or determinations of the IRB; and any suspension or termination of IRB approval.

One IRB proposed language that would eliminate any implication that the IRB should necessarily be the body within an institution that is responsible for investigating and reporting noncompliance with human subjects regulations. More flexibility in administrative arrangements for reporting was urged. Other comments endorsed the proposed language of the Policy if there is recognition that most institutions must have their own due process and if some flexibility is permitted in reporting scientific misconduct. Several respondents noted that the terms "unanticipated problems," "scientific misconduct," and "risks to others" were unclear.

Several respondents also indicated that institutions should not report *allegations* of misconduct and noncompliance—only results of investigation or inquiry about such to Federal Department and Agency Heads. It was argued that some flexibility must be given to institutions, and that institutions should be allowed to screen out allegations that are frivolous, michievous or lacking in substance. One respondent suggested that any additional policing actions are inappropriate and that only *actions* of institutions should be reported to Federal officials; otherwise, due process for researchers or other institutional personnel is jeopardized. Other reactions were that paperwork would increase if allegations are reported and that an institution would be hesitant to use the suspension mechanism as a management tool if such a suspension must be reported to Federal offices because of infractions such as tardiness in responding to an IRB.

Response: The Interagency Committee clarifies that the word "others" in § _____.103(b)(5)(i) denotes other persons who are participating in clinical trials under the same or similar protocols or who may be affected by products or procedures that were developed on the basis of inappropriate or questionable research.

In addition, in § _____.103(b)(5)(ii) the Interagency Committee has modified the Model Federal Policy to delete the word "allegation." This Section now indicates that written procedures in assurances must ensure prompt reporting to the IRB, appropriate institutional officials, and the department or Agency Head of any instance of serious or continuing noncompliance with the Policy or the requirements or determinations of the IRB. While the Interagency Committee did not intend that institutions report frivolous situations, it does expect institutions to report serious instances of noncompliance in which there is some reasonable substantiation, even if a final institutional determination has not yet been made. In such cases, the Committee also expects prompt notification of the final decision by the institutions.

Section _____.103(f)

Public Comment: Four respondents endorsed this section; one other noted that this provision was valuable to the IRB, and one suggested that it was a valuable provision in easing administrative burdens if the Office for Protection from Research Risks will accept minor rewording changes in current assurances on file to reflect changes in HHS regulations that result from adoption of the Model Federal Policy.

Response: Section _____.103(f) in the Proposed Model Federal Policy has been moved to § _____.103(a). This section requires individual Department and Agency Heads, in lieu of requiring submission of a separate assurance, to accept the existence of a current assurance on file with the Office for Protection from Research Risks, HHS, which has been approved for federalwide use by that office. Also, this section has been modified slightly to indicate that not all types of assurances on file in OPRR are appropriate for federalwide use.

Section _____.107(a) and (b)

Public Comment: Section _____.107 addresses IRB membership. One response indicated that the membership requirements for IRBs have been changed in a way that decreases the protection to vulnerable groups in research projects.

Five commentators wrote with some concern about the language changes in this section from the language in the current HHS regulations, as follows. One response indicated distress over the language changes because the presence of an advocate for a vulnerable group as a voting member of the IRB has been of immense value, and strong language is urged to require members concerned with special populations. Several others commented that the Model Federal Policy language regarding representation of vulnerable subjects is weak compared to the HHS regulations, so that the welfare of vulnerable subjects may not be adequately represented. One response also reflected that it is "risky" to remove required representation for vulnerable subjects, and it should be mandatory that representatives of the subject population serve as full members of the IRB.

Section _____.107(b), which addresses gender considerations in IRB selection, elicited a comment that the language eliminates bias or discrimination, but seven others indicated a negative response to the change from the current HHS regulations at 45 CFR 46.107(b) and urged retention of the requirement that no IRB may consist entirely of men or entirely of women. One respondent wrote that the new language is confusing, and that the term "nondiscriminatory effort" used in § _____.107(b) is unclear.

Response: The Interagency Committee expects that institutions will use good judgment and diligence in selecting persons as IRB members who can fulfill the requirements of § _____.107(a), so that persons of varying backgrounds will promote complete and adequate review of the research activities. In

approving assurances, the Federal Departments and Agencies that conduct, support or regulate the research will review IRB composition to ensure that the membership is appropriate for the research, and may request that membership be supplemented if complete and adequate review of the research does not appear possible. Concerning gender representation of the IRB, the Interagency Committee notes that in seeking diverse membership on the IRB, the institution must consider both men and women who can contribute to the role of the IRB. Given the ready availability of well qualified persons of both genders, the Interagency Committee expects that only rarely, if ever, will an IRB consist solely of men or solely of women.

Section _____.107(c) and (d)

Public Comment: Section _____.107(c) and (d) require IRBs to include at least one scientific member, at least one nonscientific member and at least one member unaffiliated with the institution. One comment was that changing the current 45 CFR 46.107(c) language to require one scientific member constitutes an improvement, but consideration should be given to smaller, particularly rural, institutions. Some allowance for review by a cooperating institution should be made, it was suggested.

Response: The Interagency Human Subjects Coordinating Committee notes that § _____.114 permits agreements between cooperating institutions under which the institution may, with the approval of the Department or Agency, use joint review, rely upon the review of another qualified IRB, or make other review arrangements aimed at avoiding a duplication of effort.

Section _____.110

Public Comment: Section _____.110 sets forth requirements for expedited review. Five respondents expressed concern that the conditions under which Department or Agency Heads may suspend, restrict or terminate approval of expedited review are not specified and that, consequently, each Head could have a separate agreement which might be burdensome for research institutions. One respondent suggested a clarification to indicate that a minor change in approved research could have an expedited review procedure *only* within the one year minimum annual review period of the IRB.

Response: The parenthetical clarification "(of one year or less)" has been added to § _____.110(a)(b)(2) to clarify the period for which IRB approval is authorized.

The Interagency Committee expects that Department and Agency Heads will base the authority to use expedited review on the "track record" of the institutions involved. For example, HHS generally permits institutions with Multiple Project Assurances to utilize the expedited review procedure. Other institutions may not use this type of review.

Section _____.111

Public Comment: This section sets forth the criteria for IRB approval of research. A few commented on § _____.111(a)(3) concerning equitable selection of subjects, as follows: (1) Institutions should be provided with a clear definition of "economically or educationally disadvantaged" persons; and (2) institutions need guidelines on involvement of these populations in research before they are included in the list of vulnerable populations. Another suggested that an additional safeguard would be that the IRB require an explanation by the investigator as to why research needs to be conducted involving a vulnerable population and that the IRB certify that such involvement is necessary. Another comment was that pregnant women should not necessarily be considered members of a vulnerable population.

Response: The Interagency Human Subjects Coordinating Committee made no changes in the Model Federal Policy at this time that specifically address these public comments but is concerned about adequate protections for vulnerable subjects and equitable selection of subjects and is continuing to study these issues. Section 107(a) of the Model Federal Policy has been modified to strengthen consideration of interests of vulnerable subjects.

Section _____.114

Public Comment: Section _____.114 concerns cooperative research. Five responses raised the following points. The current provisions could result in many different requirements if each Department or Agency Head can make a determination about cooperative research projects. Similarly, one concern expressed was that the Model Federal Policy should permit cooperating institutions to decide among themselves how to enter into various alternatives named in the section, rather than require institutions first to obtain permission from the Department or Agency; to eliminate paperwork and time burdens does not further the protection of human subjects. The section appeared to another commentator as a hindrance to cooperative effort at the "grass roots" level where working together should be encouraged. Other suggestions were that the section should be expanded to include specific details for institutions, and that it should be made clear that the requirement for IRB review of cooperative research applies whether or not funds are involved.

Response: The Interagency Committee has formulated the Model Federal Policy in such a way that Department and Agency heads retain the authority to determine what levels and loci of review are appropriate, given the nature of the research to be conducted or supported and their judgment about the experience and expertise of the institutions to be involved in the collaborative research. In this way a balance between uniform review standards and flexibility can be maintained to protect human subjects of research.

Section _____.121

Public Comment: Section _____.121 is reserved. Some respondents questioned whether the provisions of 45 CFR 46.121 are still applicable since the comparable section in the Model Federal Policy is now reserved.

Response: The Interagency Human Subjects Coordinating Committee clarifies that the FDA requirements referenced in 45 CFR 46.121 (i.e., 21 U.S.C. 312, 355, 357, 812) still apply. However, the information called for by 45 CFR 46.121 was considered no longer necessary. This section has been designated as reserved in the Model Federal Policy so that the parallel numbering sequence between the HHS and FDA regulations for the protection of human subjects could be retained in the current Model Federal Policy.

Section ——.124

Public Comment: Section ——.124 states that Department and Agency Heads may impose additional conditions necessary for the protection of human subjects. One respondent expressed hope that the Department and Agency Heads would limit additional conditions to those required by statute.

Response: The Interagency Human Subjects Coordinating Committee agrees and indicates that it will work toward uniformity among Departments and Agencies.

Departures Proposed by Departments and Agencies

Public Comment: Several comments expressed concern that deviations from

the Model Federal Policy could be abused, and departures should be limited only to those required by statute.

Concerning the VA departure, one comment stated that the Federal Departments and Agencies with which many universities are affiliated should be required to file assurances with OPRR when research administered by the affiliated institution is performed in a VA facility. Another urged that consent documents be as similar as possible among university hospitals, county hospitals and VA hospitals.

Response: The VA indicated that specification to the level of detail noted in the comments is beyond the level which is appropriate for a Model Federal Policy, and that cooperative arrangements are properly clarified by individual Departments and Agencies. VA elects to require that VA Medical Centers (VAMCs) which participate in cooperative or multi-hospital research projects obtain approval from their own IRBs for such research and does not contemplate approving § ——.114 arrangements inconsistent with this policy. VA also elects not to require that VAMCs submit written institutional assurances under § ——.103(a) to the VA Central Office. As the official responsible for the operation of VA research facilities, the Administrator will employ procedures other than the submission of written assurance from subordinate officials to assure compliance with VA policies.

On the issue of departures, the VA notes the statutory directive that it adopt the Model Federal Policy "to the maximum extent feasible consistent with other [statutory] provisions" which govern its conduct. 38 U.S.C. 4134. It has determined that adoption of the Model Federal Policy without departures is "feasible" and, thus, has withdrawn the departures noted in the June 3 **Federal Register** Notice. It notes, however, that certain provisions of the Model Federal Policy, particularly § ——.101(b) and § ——.116(c) and (d), will be narrowly construed in order to avoid inconsistency with other statutory directives.

FDA indicates that it has concurred in the Model Federal Policy. Since the Agency has already adopted regulations on informed consent (21 CFR Part 50) and on IRBs (21 CFR Part 56) elsewhere in this issue of the **Federal Register**, FDA is proposing to amend those regulations to eliminate certain inconsistencies with the Model Federal Policy. Nonetheless, because of the statutory requirements described in the proposal (51 FR 20216), FDA's regulations will continue to depart from § ——.101(h) (requirements for foreign research) and § ——.116(d) (waiver of informed consent) of the Model Federal Policy.

The Department of Education proposes to make a departure from § ——.101(b)(3)(ii) of the Model Federal Policy that pertains only to research involving the use of educational tests, survey procedures, interview procedures, or observations of public behavior, conducted under a program subject to the General Education Provisions Act. Under this departure the exemption to the Model Federal Policy is revised to read as follows: "The research is conducted under a program subject to the protections of the General Education Provisions Act (GEPA), including GEPA sections 400A (20 U.S.C. 1221–3), 438 (20 U.S.C. 1232g), and 439 (20 U.S.C. 1232h)."

The Department of Education proposes also to make a departure from section 107(a) of the Model Federal Policy that pertains to membership of IRBs. This departure results from the special concern of the Department to provide additional safeguards in the Policy for mentally disabled persons and handicapped children who are subjects of research. Under this departure, the final sentences in section 107(a) of the Policy are revised to read as follows: "When an IRB reviews research that deals with handicapped children or mentally disabled persons, the IRB shall include at least one person primarily concerned with the welfare of the research subjects. If an IRB regularly reviews research that involves other vulnerable categories of subjects, such as non-handicapped children, prisoners, or pregnant women, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these subjects."

The HHS is withdrawing its departure from the proposed Model Federal Policy indicated in the June 3, 1986, **Federal Register**. This is a provision which is now found in the current HHS regulations at 45 CFR 46.101(i): "If, following review of proposed research activities that are exempt from these regulations under paragraph (b)(6), [of the current HHS regulations] the Secretary determines that a research or demonstration project presents a danger to the physical, mental, or emotional well-being of a participant or subject of the research or demonstration project, then federal funds may not be expended for such a project without the written informed consent of each participant or subject." While the Department has an obligation, pursuant to the conditions imposed upon its appropriations, to ensure that research activities do not present a danger to the physical, mental or emotional well-being of participants, as enacted by the most recent continuing appropriations act for HHS, this statutory requirement will be accomplished under § ——.101(d). This section indicates that Department or Agency heads may require that specific research activities or classes of research activities conducted, supported, or otherwise subject to regulation by the department or agency but not otherwise covered by this policy, comply with some or all of the requirements of this policy.

Lists of Subjects in the Notices of Proposed Rulemaking

Protection of human research subjects, Research conducted, supported, regulated, Institutional review boards, Informed consent, Cooperative research, Research investigators, Research institutions, Assurances of Compliance.

DEPARTMENT OF AGRICULTURE

7 CFR Part 1c

It is proposed that Title 7 of the Code of Federal Regulations be amended by adding Part 1c as set forth at the end of this document.

PART 1c—PROTECTION OF HUMAN SUBJECTS

Sec.

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Peter C. Myers,

Deputy Secretary of Agriculture.

September 16, 1988.

DEPARTMENT OF ENERGY

10 CFR Part 745

It is proposed that Title 10 of the Code of Federal Regulations be amended by revising Part 745 as set forth at the end of this document.

PART 745—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 42 U.S.C. 7254; 42 U.S.C. 300v–1(b).

James F. Decker,

Deputy Director, Office of Energy Research, Department of Energy.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1230

It is proposed that Title 14 of the Code of Federal Regulations be amended by adding Part 1230 as set forth at the end of this document.

PART 1230—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

James C. Fletcher,

Administrator, National Aeronautics and Space Administration.

DEPARTMENT OF COMMERCE

15 CFR Part 27

It is proposed that Title 15 of the Code of Federal Regulations be amended by adding Part 27 as set forth at the end of this document.

PART 27—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

C. William Verity,

Secretary of Commerce.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1028

It is proposed that Title 16 of the Code of Federal Regulations be amended by revising Part 1028 as set forth at the end of this document.

PART 1028—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

James V. Lacy,

General Counsel, CPSC.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

22 CFR Part 225

It is proposed that Title 22 of the Code of Federal Regulations be amended by adding Part 225 as set forth at the end of this document.

PART 225—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Alan Woods,

Administrator.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 60

It is proposed that Title 24 of the Code of Federal Regulations be amended by adding Part 60 as set forth at the end of this document.

PART 60—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Date: August 17, 1988.

J. Michael Dorsey,

Acting Secretary.

DEPARTMENT OF JUSTICE

28 CFR Part 46

It is proposed that Title 28 of the Code of Federal Regulations be amended by adding Part 46 as set forth at the end of this document.

PART 46—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 28 U.S.C. 509–510; 42 U.S.C. 300v–1(b).

Richard L. Thornburgh,

Attorney General, U.S. Department of Justice.

DEPARTMENT OF DEFENSE

32 CFR Part 219

It is proposed that Title 32 of the Code of Federal Regulations be amended by revising Part 219 as set forth at the end of this document.

PART 219—PROTECTION OF HUMAN SUBJECTS

Sec.
219.101 To what does this policy apply?
219.102 Definitions.
219.103 Assuring compliance with this policy—research conducted or supported by any Federal department or agency.
219.104—219.106 [Reserved]
219.107 IRB Membership.
219.108 IRB functions and operations.
219.109 IRB review of research.
219.110 Expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research.
219.111 Criteria for IRB approval of research.
219.112 Review by institution.
219.113 Suspension or termination of IRB approval of research.
219.114 Cooperative research.
219.115 IRB records.
219.116 General requirements for informed consent.
219.117 Documentation of informed consent.
219.118 Applications and proposals lacking definite plans for involvement of human subjects.
219.119 Research undertaken without the intention of involving human subjects.
219.120 Evaluation and disposition of applications and proposals for research to be conducted or supported by a Federal department or agency.
219.121 [Reserved]
219.122 Use of Federal funds.
219.123 Early termination of research support: Evaluation of applications and proposals.
219.124 Conditions.

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 3, 1988.

DEPARTMENT OF EDUCATION

34 CFR Part 97

1. It is proposed that Title 34 of the Code of Federal Regulations be amended by adding Part 97 as set forth at the end of this document.

PART 97—PROTECTION OF HUMAN SUBJECTS

Sec.
97.101 To what does this policy apply?
97.102 Definitions.
97.103 Assuring compliance with this policy—research conducted or supported by any Federal department or agency.
97.104—97.106 [Reserved]
97.107 IRB Membership.
97.108 IRB functions and operations.
97.109 IRB review of research.
97.110 Expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research.
97.111 Criteria for IRB approval of research.
97.112 Review by institution.
97.113 Suspension or termination of IRB approval of research.
97.114 Cooperative research.
97.115 IRB records.
97.116 General requirements for informed consent.
97.117 Documentation of informed consent.
97.118 Applications and proposals lacking definite plans for involvement of human subjects.
97.119 Research undertaken without the intention of involving human subjects.
97.120 Evaluation and disposition of applications and proposals for research to be conducted or supported by a Federal department or agency.
97.121 [Reserved]
97.122 Use of Federal funds.
97.123 Early termination of research support: Evaluation of applications and proposals.
97.124 Conditions.

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b); Section 97.101(b)(3) issued under 20 U.S.C. 1221–3(a)(1), 3474.

2. Part 97 is further amended by revising paragraph (b)(3) of § 97.101 to read as follows:

§ 97.101 To what does this policy apply?

* * * * *

(b) * * *

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement) survey procedures, interview procedures or observation of public behavior that is not exempt under paragraph (b)(2) of this section, if:

(i) The human subjects are elected or appointed public officials or candidates for public office; or

(ii) The research is conducted under a program subject to the protections of the General Education Provisions Act (GEPA), including GEPA sections 400A (20 U.S.C. 1221–3), 438 (20 U.S.C. 1232g), and 439 (20 U.S.C. 1232h).

* * * * *

3. Part 97 is further amended by revising paragraph (a) of § 97.107 to read as follows:

§ 97.107 IRB membership.

(a) Each IRB shall have at least five members, with varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution. The IRB shall be sufficiently qualified through the experience and expertise of its members, and the diversity of the members, including consideration of race, gender, and cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice. The IRB shall therefore include persons knowledgeable in these areas. When an IRB reviews research that deals with the handicapped children or mentally disabled persons, the IRB shall include at least one person primarily concerned with the welfare of the research subjects. If an IRB regularly reviews another vulnerable category of subjects, such as non-handicapped children, prisoners, or pregnant women, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these subjects.

* * * * *

4. Part 97 is further amended by adding after each section the following authority citation:

Authority: 5 U.S.C. 301; 20 U.S.C. 1221–3(a)(1), 3474; 42 U.S.C. 300v–1(b))

Lauro F. Cavazos,

Secretary of Education.

VETERANS ADMINISTRATION

38 CFR Part 16

It is proposed that Title 38 of the Code of Federal Regulations be amended by adding Part 16 as set forth at the end of this document.

PART 16—PROTECTION OF HUMAN SUBJECTS

Sec.
16.101 To what does this policy apply?
16.102 Definitions.
16.103 Assuring compliance with this policy—research conducted or supported by any Federal department or agency.
16.104—16.106 [Reserved]
16.107 IRB membership.
16.108 IRB functions and operations.
16.109 IRB review of research.
16.110 Expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research.
16.111 Criteria for IRB approval of research.
16.112 Review by institution.
16.113 Suspension or termination of IRB approval of research.
16.114 Cooperative research.
16.115 IRB records.
16.116 General requirements for informed consent.
16.117 Documentation of informed consent.

Authority: 5 U.S.C. 301; 38 U.S.C. 210(c)(1), 4131, 4134; 42 U.S.C. 300v–1(b).

Thomas K. Turnage,

Administrator.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 26

It is proposed that Title 40 of the Code of Federal Regulations be amended by adding Part 26 as set forth at the end of this document.

PART 26—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Lee M. Thomas,

Administrator for EPA.

August 30, 1988.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 46

It is proposed that Title 45 of the Code of Federal Regulations Part 46 be amended, as follows:

PART 46—PROTECTION OF HUMAN SUBJECTS

1. An authority citation for Subpart A is added to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 289; 42 U.S.C. 300v–1(b).

2. Subpart A is revised to read as set forth at the end of this document.

Subpart A—Basic HHS Policy for Protection of Human Research Subjects

Otis R. Bowen,

Secretary, Department of Health and Human Services.

NATIONAL SCIENCE FOUNDATION

45 CFR Part 690

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding Part 690 as set forth at the end of this document.

PART 690—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Erich Bloch,

Director.

DEPARTMENT OF TRANSPORTATION

49 CFR Part 11

It is proposed that Title 49 of the Code of Federal Regulations be amended by adding Part 11 as set forth at the end of this document.

PART 11—PROTECTION OF HUMAN SUBJECTS

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1–(b).

Mimi Dawson,

Deputy Secretary.

Text of the Proposed Common Rule

The text of the proposed common rule as adopted by the agencies in this document appears below.

Part ——— Protection of Human Subjects

§ ———.101 To what does this policy apply?

(a) Except as provided in paragraph (b) of this section, this policy applies to all research involving human subjects conducted, supported or otherwise subject to regulation by any federal department or agency which takes appropriate administrative action to make the policy applicable to such research. This includes research conducted by federal civilian employees or military personnel, except that each department or agency head may adopt such procedural modifications as may be appropriate from an administrative standpoint. It also includes research conducted, supported, or otherwise subject to regulation by the federal government outside the United States.

(1) Research that is conducted or supported by a federal department or agency, whether or not it is regulated as defined in § ———.102(e), must comply with all sections of this policy.

(2) Research that is neither conducted nor supported by a federal department or agency but is subject to regulation as defined in § ———.102(e) must be reviewed and approved, in compliance with §§ ———.101, ———.102, ———.107 through ———.117 of this policy, by an institutional review board (IRB) that operates in accordance with the pertinent requirements of this policy.

(b) Unless otherwise required by department or agency heads, research activities in which the only involvement of human subjects will be in one or more of the following categories are exempt from this policy:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as: (i) Research on regular and special education instructional strategies, or (ii) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (i) Information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (ii) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior that is not exempt under paragraph (b)(2) of this section, if: (i) The human subjects are elected or appointed public officials or candidates for public office; or (ii) federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (i) Public benefit or service programs; (ii) procedures for obtaining benefits or services under those programs; (iii) possible changes in or alternatives to those programs or procedures; or (iv) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (i) if wholesome foods without additives are consumed or (ii) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food

and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

(c) Department or agency heads retain final judgment as to whether a particular activity is covered by this policy.

(d) Department or agency heads may require that specific research activities or classes of research activities conducted, supported, or otherwise subject to regulation by the department or agency but not otherwise covered by this policy, comply with some or all of the requirements of this policy.

(e) Compliance with this policy requires compliance with pertinent federal laws or regulations which provide additional protections for human subjects.

(f) This policy does not affect any state or local laws or regulations which may otherwise be applicable and which provide additional protections for human subjects.

(g) This policy does not affect any foreign laws or regulations which may otherwise be applicable and which provide additional protections to human subjects of research.

(h) When research covered by this policy takes place in foreign countries, procedures normally followed in the foreign countries to protect human subjects may differ from those set forth in this policy. [An example is a foreign institution which complies with guidelines consistent with the World Medical Assembly Declaration (Declaration of Helsinki amended 1983) issued either by sovereign states or by an organization whose function for the protection of human research subjects is internationally recognized.] In these circumstances, if a department or agency head determines that the procedures prescribed by the institution afford protections that are at least equivalent to those provided in this policy, the department or agency head may approve the substitution of the foreign procedures in lieu of the procedural requirements provided in this policy. Except when otherwise required by statute, Executive Order, or the department or agency head, notices of these actions as they occur will be published in the **Federal Register** or will be otherwise published as provided in department or agency procedures.

(i) Unless otherwise required by law, department or agency heads may waive the applicability of some or all of the provisions of this policy to specific research activities or classes of research activities otherwise covered by this policy. Except when otherwise required by stature or Executive Order, the department or agency head shall forward advance notices of these actions to the Office for Protection from Research Risks, Department of Health and Human Services (HHS), and shall also publish them in the **Federal Register** or in such other manner as provided in department or agency procedures.

§ _____.102 Definitions.

(a) "Department or agency head" means the head of any federal department or agency and any other officer or employee of any department or agency to whom authority has been delegated.

(b) "Institution" means any public or private entity or agency (including federal, state, and other agencies).

(c) "Legally authorized representative" means an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participation in the procedure(s) involved in the research.

(d) "Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute "research" for purposes of this policy, whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some "demonstration" and "service" programs may include research activities.

(e) "Research subject to regulation," and similar terms are intended to encompass those research activities for which a federal department or agency has specific responsibility for regulating as a research activity, (for example, Investigational New Drug requirements administered by the Food and Drug Administration). It does not include research activities which are incidentally regulated by a federal department or agency solely as part of the department's or agency's broader responsibility to regulate certain types of activities whether research or non-research in nature (for example, Wage and Hour requirements administered by the Department of Labor).

(f) "Human subject" means a living individual about whom an investigator (whether professional or student) conducting research obtains:

(1) Data through intervention or interaction with the individual, or

(2) Identifiable private information.

"Intervention" includes both physical procedures by which data are gathered (for example, venipuncture) and manipulations of the subject or the subject's environment that are performed for research purposes. "Interaction" includes communication or interpersonal contact between investigator and subject. "Private information" includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.

(g) "IRB" means an institutional review board established in accord with and for the purposes expressed in this policy.

(h) "IRB approval" means the determination of the IRB that the research has been reviewed and may be conducted at an institution within the constraints set forth by the IRB and by other institutional and federal requirements.

(i) "Minimal risk" means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

(j) "Certification" means the official notification by the institution to the supporting department or agency, in accordance with the requirements of this policy, that a research project or activity involving human subjects has been reviewed and approved by an IRB in accordance with an approved assurance.

§ _____.103 Assuring compliance with this policy—research conducted or supported by any federal department or agency.

(a) Each institution engaged in research which is covered by this policy and which is conducted or supported by a federal department or agency will provide written assurance satisfactory to the department or agency head that it will comply with the requirements set forth in this policy. In lieu of requiring submission of an assurance, individual department or agency heads shall accept the existence of a current assurance, appropriate for the research in question, on file with the Office for Protection from Research Risks, HHS, and approved for federalwide use by

that office. When the existence of an HHS-approved assurance is accepted in lieu of requiring submission of an assurance, reports (except certification) required by this policy to be made to department and agency heads shall also be made to the Office for Protection from Research Risks, HHS.

(b) Departments and agencies will conduct or support research covered by this policy only if the institution has an assurance approved as provided in this section, and only if the institution has certified to the department or agency head that the research has been reviewed and approved by an IRB provided for in the assurance, and will be subject to continuing review by the IRB. Assurances applicable to federally supported or conducted research shall at a minimum include:

(1) A statement of principles governing the institution in the discharge of its responsibilities for protecting the rights and welfare of human subjects of research conducted at or sponsored by the institution, regardless of whether the research is subject to federal regulation. This may include an appropriate existing code, declaration, or statement of ethical principles, or a statement formulated by the institution itself. This requirement does not preempt provisions of this policy applicable to department- or agency-supported or regulated research and need not be applicable to any research exempted or waived under § _____.101 (b) or (i).

(2) Designation of one or more IRBs established in accordance with the requirements of this policy, and for which provisions are made for meeting space and sufficient staff to support the IRB's review and recordkeeping duties.

(3) A list of the IRB members identified by name; earned degrees; representative capacity; indications of experience such as board certifications, licenses, etc., sufficient to describe each member's chief anticipated contributions to IRB deliberations; and any employment or other relationship between each member and the institution; for example: full-time employee, part-time employee, member of governing panel or board, stockholder, paid or unpaid consultant. Changes in IRB membership shall be reported to the department or agency head, unless in accord with § _____.103(a) of this policy, the existence of an HHS-approved assurance is accepted. In this case, change in IRB membership shall be reported to the Office for Protection from Research Risks, HHS.

(4) Written procedures which the IRB will follow (i) for conducting its initial and continuing review of research and for reporting its findings and actions to the investigator and the institution; (ii) for determining which projects require review more often than annually and which projects need verification from sources other than the investigators that no material changes have occurred since previous IRB review; and (iii) for ensuring prompt reporting to the IRB of proposed changes in a research activity, and for ensuring that such changes in approved research, during the period for which IRB approval has already been given, may not be initiated without IRB review and approval except when necessary to eliminate apparent immediate hazards to the subject.

(5) Written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials, and the department or agency head (i) any unanticipated problems or scientific misconduct involving risks to human subjects or others; (ii) any instance of serious or continuing noncompliance with this policy or the requirements or determinations of the IRB; and (iii) any suspension or termination of IRB approval.

(c) The assurance shall be executed by an individual authorized to act for the institution and to assume on behalf of the institution the obligations imposed by this policy and shall be filed in such form and manner as the department or agency head prescribes.

(d) The department or agency head will evaluate all assurances submitted in accordance with this policy through such officers and employees of the department or agency and such experts or consultants engaged for this purpose as the department or agency head determines to be appropriate. The department or agency head's evaluation will take into consideration the adequacy of the proposed IRB in light of the anticipated scope of the institutions' research activities and the types of subject populations likely to be involved, the appropriateness of the proposed initial and continuing review procedures in light of the probable risks, and the size and complexity of the institution.

(e) On the basis of this evaluation, the department or agency head may approve or disapprove the assurance, or enter into negotiations to develop an approvable one. The department or agency head may limit the period during which any particular approved assurance or class of approved assurances shall remain effective or otherwise condition or restrict approval.

(f) Certification is required when the research is supported by a federal department or agency and not otherwise exempted or waived under § _____.101 (b) or (i). An institution with an approved assurance shall certify that each application or proposal for research covered by the assurance and by § _____.103 of this policy has been reviewed and approved by the IRB. Such certification must be submitted with the application or proposal or by such later date as may be prescribed by the department or agency to which the application or proposal is submitted. Under no condition shall research covered by § _____.103 of the policy be supported prior to receipt of the certification that the research has been reviewed and approved by the IRB. Institutions without an approved assurance covering the research shall certify within 30 days after receipt of a request for such a certification from the department or agency, that the application or proposal has been approved by the IRB. If the certification is not submitted within these time limits, the application or proposal may be returned to the institution.

§ _____.104_____.106 [Reserved]

§ _____.107 IRB membership.

(a) Each IRB shall have at least five members, with varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution. The IRB shall be sufficiently qualified through the experience and expertise of its members, and the diversity of the members, including consideration of race, gender, and cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice. The IRB shall therefore, include persons knowledgeable in these areas. If an IRB regularly reviews research that involves a vulnerable category of subjects, such as children, prisoners, pregnant women or mentally disabled persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these subjects.

(b) Every nondiscriminatory effort will be made to ensure that no IRB consists entirely of men or entirely of women, including the institution's consideration

of qualified persons of both sexes, so long as no selection is made to the IRB on the basis of gender. No IRB may consist entirely of members of one profession.

(c) Each IRB shall include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.

(d) Each IRB shall include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution.

(e) No IRB may have a member participate in the IRB's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.

(f) An IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues which require expertise beyond or in addition to that available on the IRB. These individuals may not vote with the IRB.

§ _____.108 IRB functions and operations.

In order to fulfill the requirements of this policy each IRB shall:

(a) Follow written procedures in the same detail as described in § _____.103(b)(4) and, to the extent required by, § _____.103(b)(5).

(b) Except when an expedited review procedure is used (see § _____.110), review proposed research at convened meetings at which a majority of the members of the IRB are present, including at least one member whose primary concerns are in nonscientific areas. In order for the research to be approved, it shall receive the approval of a majority of those members present at the meeting.

§ _____.109 IRB review of research.

(a) An IRB shall review and have authority to approve, require modifications in (to secure approval), or disapprove all research activities covered by this policy.

(b) An IRB shall require that information given to subjects as part of informed consent is in accordance with § _____.116. The IRB may require that information, in addition to that specifically mentioned in § _____.116, be given to the subjects when in the IRB's judgment the information would meaningfully add to the protection of the rights and welfare of subjects.

(c) An IRB shall require documentation of informed consent or may waive documentation in accordance with § _____.117.

(d) An IRB shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure IRB approval of the research activity. If the IRB decides to disapprove a research activity, it shall include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in writing.

(e) An IRB shall conduct continuing review of research covered by this policy at intervals appropriate to the degree of risk, but not less than once per year, and shall have authority to observe or have a third party observe the consent process and the research.

§ _____.110 Expedited review procedures for certain kinds of research involving no more then minimal risk, and for minor changes in approved research.

(a) The Secretary, HHS, has established, and published as a Notice in the **Federal Register**, a list of categories of research that may be reviewed by the IRB through an expedited review procedure. The list will be amended, as appropriate after consultation with other departments and agencies, through periodic republication by the Secretary, HHS, in the **Federal Register**. A copy of the list is available from the Office for Protection from Research Risks, National Institutes of Health, HHS, Bethesda, Maryland 20892.

(b) With the approval of department or agency heads, an IRB may use the expedited review procedure to review either or both of the following:

(1) some or all of the research appearing on the list and found by the reviewers to involve no more than minimal risk,

(2) minor changes in previously approved research during the period (of one year or less) for which approval is authorized.

Under and expedited review procedure, the review may be carried out by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB. In reviewing the research, the reviewers may excercise all of the authorities of the IRB except that the reviewers may not disapprove the research. A research activity may be disapproved only after review in accordance with the non-expedited procedure set forth in § _____.108(b).

(c) Each IRB which uses an expedited review procedure shall adopt a method for keeping all members advised of research proposals which have been approved under the procedure.

(d) The department or agency head may restrict, suspend, terminate, or choose not to authorize an institution's or IRB's use of the expedited review procedure.

§ _____.111 Criteria for IRB approval of research.

(a) In order to approve research covered by this policy the IRB shall determine that all of the following requirements are satisfied:

(1) Risks to subjects are minimized: (i) By using procedures which are consistent with sound research design and which do not unnecessarily expose subjects to risk, and (ii) whenever appropriate, by using procedures already being performed on the subjects for diagnostic or treatment purposes.

(2) Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research). The IRB should not consider possible long-range effects of applying knowledge gained in the research (for example, the possible effects of the research on public policy) as among those research risks that fall within the purview of its responsibility.

(3) Selection of subjects is equitable. In making this assessment the IRB should take into account the purposes of the research and the setting in which the research will be conducted and should be particularly cognizant of the special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.

(4) Informed consent will be sought from each prospective subject or the subject's legally authorized representative, in accordance with, and to the extent required by § _____.116.

(5) Informed consent will be appropriately documented, in accordance with, and to the extent required by § _____.117.

(6) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.

(7) When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(b) When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

§ _____.112 Review by institution.

Research covered by this policy that has been approved by an IRB may be subject to further appropriate review and approval or disapproval by officials of the institution. However, those officials may not approve the research if it has not been approved by an IRB.

§ _____.113 Suspension or termination of IRB approval of research.

An IRB shall have authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected serious harm to subjects. Any suspension or termination of approval shall include a statement of the reasons for the IRB's action and shall be reported promptly to the investigator, appropriate institutional officials, and the department or agency head.

§ _____.114 Cooperative research.

Cooperative research projects are those projects covered by this policy which involve more than one institution. In the conduct of cooperative research projects, each institution is responsible for safeguarding the rights and welfare of human subjects and for complying with this policy. With the approval of the department or agency head, an institution participating in a cooperative project may enter into a joint review arrangement, rely upon the review of another qualified IRB, or make similar arrangements for avoiding duplication of effort.

§ _____.115 IRB records.

(a) An institution, or when appropriate an IRB, shall prepare and maintain adequate documentation of IRB activities, including the following:

(1) Copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to subjects.

(2) Minutes of IRB meetings which shall be in sufficient detail to show attendance at the meetings; actions taken by the IRB; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controverted issues and their resolution.

(3) Records of continuing review activities.

(4) Copies of all correspondence between the IRB and the investigators.

(5) A list of IRB members in the same detail as described in § _____.103(b)(3).

(6) Written procedures for the IRB in the same detail as described in § _____.103(b)(4) and § _____.103(b)(5).

(7) Statements of significant new findings provided to subjects, as required by § _____.116(b)(5).

(b) The records required by this policy shall be retained for at least 3 years, and records relating to research which is conducted shall be retained for at least 3 years after completion of the research. All records shall be accessible for inspection and copying by authorized representatives of the department or agency at reasonable times and in a reasonable manner.

§ _____.116 General requirements for informed consent.

Except as provided elsewhere in this policy, no investigator may involve a human being as a subject in research covered by this policy unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject or the representative shall be in language understandable to the subject or the representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the representative is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigatory, the sponsor, the institution or its agents from liability for negligence.

(a) Basic elements of informed consent. Except as provided in paragraph (c) or (d) of this section, in seeking informed consent the following information shall be provided to each subject:

(1) A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental;

(2) A description of any resasonably foreseeable risks or discomforts to the subject;

(3) A description of any benefits to the subject or to others which may reasonably be expected from the research;

(4) A disclosure of appropriate alternative procedures or courses of threatment, if any, that might be advantageous to the subject;

(5) A statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained;

(6) For research involving more than minimal risk, an explanation as to whether any compensation and an explanation as to whether any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained;

(7) An explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research-related injury to the subjects and

(8) A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

(b) Additional elements of informed consent. When appropriate, one or more of the following elements of information shall also be provided to each subject:

(1) A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable;

(2) Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent;

(3) Any additional costs to the subject that may result from particpation in the research;

(4) The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject;

(5) A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject; and

(6) The approximate number of subjects involved in the study.

(c) An IRB may approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth above, or waive the requirement to obtain informed consent provided the IRB finds and documents that:

(1) The research or demonstration project is to be conducted by or subject to the approval of state or local government officials and is designed to study, evaluate, or otherwise examine: (i) Public benefit or service programs; (ii) procedures for obtaining benefits or services under those programs; (iii) possible changes in or alternatives to those programs or procedures; or (iv) possible changes in methods or levels of payment for benefits or services under those programs; and

(2) The research could not practicably be carried out without the waiver or alteration.

(d) An IRB may approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth in this section, or waive the requirements to obtain informed consent provided the IRB finds and documents that:

(1) The research involves no more than minimal risk to the subjects;

(2) The waiver or alteration will not adversely affect the rights and welfare of the subjects;

(3) The research could not practicably be carried out without the waiver or alteration; and

(4) Whenever appropriate, the subjects will be provided with additional pertinent information after participation.

(e) The informed consent requirements in this policy are not intended to preempt any applicable federal, state, or local laws which require additional information to be disclosed in order for informed consent to be legally effective.

(f) Nothing in this policy is intended to limit the authority of a physician to provide emergency medical care, to the extent the physician is permitted to do so under applicable federal, state, or local law.

§ _____.117 Documentation of informed consent.

(a) Except as provided in paragraph (c) of this section, informed consent shall be documented by the use of a written consent form approved by the IRB and signed by the subject or the subject's legally authorized representative. A copy shall be given to the person signing the form.

(b) Except as provided in paragraph (c) of this section, the consent form may be either of the following:

(1) A written consent document that embodies the elements of informed consent required by § _____.116. This form may be read to the subject or the subject's legally authorized representative, but in any event, the investigator shall give either the subject or the representative adequate opportunity to read it before it is signed; or

(2) A "short form" written consent document stating that the elements of informed consent required by § _____.116 have been presented orally to the subject or the subject's legally authorized representative. When this method is used, there shall be a witness to the oral presentation. Also, the IRB shall approve a written summary of what is to be said to the subject or the representative. Only the short form itself is to be signed by the subject or the representative. However, the witness shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary shall be given to the subject or the representative, in addition to a copy of the "short form."

(c) An IRB may waive the requirement for the investigator to obtain a signed consent form for some or all subjects if it finds either:

(1) That the only record linking the subject and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality. Each subject will be asked whether the subject wants documentation linking the subject with the research, and the subject's wishes will govern; or

(2) That the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context.

In cases in which the documentation requirement is waived, the IRB may require the investigator to provide subjects with a written statement regarding the research.

§ _____.118 Applications and proposals lacking definite plans for involvement of human subjects.

Certain types of applications for grants, cooperative agreements, or contracts are submitted to departments or agencies with the knowledge that subjects may be involved within the period of support, but definite plans would not normally be set forth in the application or proposal. These include activities such as institutional type grants when selection of specific projects is the institution's responsibility; research training grants in which the activities involving subjects remain to be selected; and projects in which human subjects' involvement will depend upon completion of instruments, prior animal studies, or purification of compounds. These applications need not be reviewed by an IRB before an award may be made. However, except for research exempted or waived under § _____.101(b) or (i), no human subjects may be involved in any project supported by these awards until the project has been reviewed and approved by the IRB, as provided in this policy, and certification submitted, by the institution, to the department or agency.

§ _____.119 Research undertaken without the intention of involving human subjects.

In the event research is undertaken without the intention of involving of human subjects, but it is later proposed to involve human subjects in the research, the research shall first be reviewed and approved by an IRB, as provided in this policy, a certification submitted, by the institution, to the department or agency, and final approval given to the proposed change by the department or agency.

§ _____.120 Evaluation and disposition of applications and proposals for research to be conducted or supported by a Federal department or agency.

(a) The department or agency head will evaluate all applications and proposals involving human subjects submitted to the department or agency through such officers and employees of the department or agency and such experts and consultants as the department or agency head determines to be appropriate. This evaluation will take into consideration the risks to the subjects, the adequacy of protection against these risks, the potential benefits of the research to the subjects and others, and the importance of the knowledge gained or to be gained.

(b) On the basis of this evaluation, the department or agency head may approve or disapprove the application or proposal, or enter into negotiations to develop an approvable one.

§ _____.121 [Reserved]

§ _____.122 Use of Federal funds.

Federal funds administered by a department or agency may not be expended for research involving human subjects unless the requirements of this policy have been satisfied.

§ _____.123 Early termination of research support; evaluation of applications and proposals.

(a) The department or agency head may require that department or agency support for any project be terminated or suspended in the manner prescribed in applicable program requirements, when the department or agency head finds an institution has materially failed to comply with the terms of this policy.

(b) In making decisions about supporting or approving applications or proposals covered by this policy the department or agency head may take into account, in addition to all other eligibility requirements and program criteria, factors such as whether the applicant has been subject to a termination or suspension under paragraph (a) of this section and whether the applicant or the person or persons who would direct or has have directed the scientific and technical aspects of an activity has have, in the judgment of the department or agency head, materially failed to discharge responsibility for the protection of the rights and welfare of human subjects (whether or not the research was subject to federal regulation).

§ _____.124 Conditions.

With respect to any research project or any class of research projects the department or agency head may impose additional conditions prior to or at the time of approval when in the judgment of the department or agency head additional conditions are necessary for the protection of human subjects.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 50 and 56

[Docket No. 87N-0032]

Protection of Human Subjects; Informed Consent; Standards for Institutional Review Boards for Clinical Investigations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend (1) its regulations that contain the general standards for any institutional review board (IRB) that reviews clinical investigations regulated by the agency and (2) its regulations that establish general requirements for informed consent of human subjects that participate in such research. The agency intends to conform its regulations to the extent possible to the "Federal Policy for the Protection of Human Research Subjects" (Model Policy) published elsewhere in this issue of the **Federal Register.** Existing FDA regulations governing protection of human subjects share a common core with the Model Policy and implement the fundamental principles embodied in that policy. The purpose of these proposed amendments is to eliminate certain inconsistencies with the Model Policy.

DATE: Comments by January 9, 1989.

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: Bonnie M. Lee, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION:

Background

Development of Model Policy

FDA is charged by statute with the obligation of ensuring the protection of the rights, safety, and welfare of human subjects who participate in clinical investigations involving articles subject to section 505(i), 507(d), or 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i), 357(d), or 360j(g)), as well as clinical investigations that support applications for research or marketing permits for products regulated by FDA, including food and color additives, drugs for human use, medical devices for human use, biological products for human use, and electronic products. In performance of that obligation, FDA, in the **Federal Register**, of January 27, 1981, adopted regulations governing informed consent of human subjects (21 CFR Part 50; 46 FR 8942) and regulations establishing standards for the composition, operation, and responsibilities of any IRB that reviews clinical investigations involving human subjects (21 CFR Part 56; 46 FR 8958). At the same time, the Department of Health and Human Services (HHS) also adopted regulations on the protection of human research subjects (45 CFR Part 46). The regulations adopted by FDA in 21 CFR Parts 50 and 56 and by HHS in 45 CFR Part 46 have provided a common framework for clinical investigators, any IRB, and institutions that have been involved in research that is subject to FDA's regulatory requirements or that is funded by HHS.

In December 1981, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research issued its "First Biennial Report on the Adequacy and Uniformity of Federal Rules and Policies, and Their Implementation, for the Protection of Human Subjects in Biomedical and Behavioral Research, Protecting Human Subjects." Included in this report was a recommendation that the regulations issued by HHS (45 CFR Part 46) be adopted as a common core by all Federal departments and agencies, while permitting additions needed by any department or agency that were not inconsistent with these core provisions.

In May 1982, The President's Science Advisor, Office of Science and Technology Policy (OSTP), appointed an Ad Hoc Committee for the Protection of Human Research Subjects, under the auspices of the Federal Coordinating Council for Science, Engineering, and Technology (FCCSET), to respond to the recommendations of the President's Commission. The Committee was composed of representatives and ex-officio members from departments and agencies that conduct, support, or regulate research involving human subjects. The Ad Hoc Committee developed responses to the recommendations of the President's Commission in consultation with OSTP and the Office of Management and Budget (OMB).

The Ad Hoc Committee agreed that uniformity of Federal regulations is desirable to eliminate unnecessary regulations and to promote increased understanding by institutions that conduct federally supported or regulated research involving human subjects. The Ad Hoc Committee developed a model policy which OSTP later modified and, with the concurrence of all affected Federal departments and agencies, published as a proposal in the **Federal Register** of June 3, 1986 (51 FR 20204). More than 200 written comments were submitted in response to the proposal. These comments were considered by the Interagency Human Subjects Coordinating Committee, a second committee chartered by FCCSET in 1983. This committee is composed of representatives of all Federal departments and agencies that conduct, support, or regulate research involving human subjects. Published elsewhere in this issue of the **Federal Register** is the final Model Policy.

FDA concurs with the final Model Policy. However, FDA must diverge

from § _____.101(h) of the final Model Policy with regard to those clinical investigations that take place in a foreign country and are conducted under a research permit granted by FDA. Such investigations must be carried out in accordance with the act, which establishes certain requirements for the conduct of such investigations (see, e.g., 21 U.S.C. 355(i), 357(d)(3), and 360j(g)). For these investigations, FDA does not have the authority to accept the procedures followed in a foreign country in lieu of the procedures required by the act. FDA must also depart from § _____.116(d) of the final Model Policy (see 21 CFR 50.20). The act requires that informed consent be obtained from all subjects of clinical investigations except in very limited circumstances (see, e.g., 21 U.S.C. 355(i), 357(d)(3), and 360j(g)(3)(D), which establish requirements for the conduct of clinical investigations for drugs, antibiotic drugs, and medical devices, respectively). FDA does not have the authority under the act to waive this requirement.

Accordingly, the agency is committed to being as consistent with the final Model Policy as it can be, given the unique situation created by the act and the fact that FDA only regulates, and does not support or conduct, research under its regulations. For all these reasons, the agency proposes the following amendments to its regulations in Parts 50 and 56 to conform them to the final Model Policy to the extent permitted by the act. The proposed changes are minor, and FDA believes that they would not require significant modifications in current IRB procedures or operations or in how informed consent is obtained from human subjects who participate in clinical investigations.

Proposed Revisions of FDA'S Regulations

Definitions

1. FDA proposes to revise the definition of "minimal risk" in §§ 50.3(l) and 56.102(i) to conform it to the definition in the Model Policy. The current definition in §§ 50.3(l) and 56.102(i) of FDA's regulations states:

> "Minimal risk" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

The wording of the definition of "minimal risk" in § ——.102(i) of the final Model Policy is slightly different. To make its regulations as consistent as possible with the Model Policy, FDA is proposing to adopt that policy's definition of "minimal risk." Accordingly, FDA is proposing to revise §§ 50.3(l) and 56.102(i) to state:

> "Minimal risk" means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

FDA believes that the proposed change in wording does not substantively change the current definition of "minimal risk" as it pertains to research regulated by the agency. Rather, it clarifies FDA's current definition.

2. FDA proposes to add to the IRB regulations a definition of "IRB approval," which is included in § —— .102(h) of the final Model Policy. The definition of "IRB approval" in proposed new § 56.102(m) is provided to conform FDA's regulations with the Model Policy and for clarification. It is consistent with the agency's policy respecting IRB approval under current Part 56.

Exemptions from IRB Requirement

3. In new § 56.104(d), FDA proposes to add to the list of categories of clinical investigations that are exempt from the requirements for IRB review certain taste and food quality evaluation studies. This exemption is provided in the final Model Policy at § —— .101(b)(6), in response to a request from the U.S. Departmen tof Agriculture (USDA), but it is also appropriate for FDA. The exemption would apply only to taste tests and quality evaluation studies of foods that are not adulterated and that contain ingredients that are (1) generally recognized as safe (GRAS) (see 21 CFR Parts 170, 182, 184, and 186), (2) used in accordance with FDA's food additive regulations, or (3) used in accordance with an approval issued by USDA or the Environmental Protection Agency.

IRB Membership

4. FDA is proposing to amend § 56.107(a) in several respects to conform it to the language contained in § ——.107(a) of the final Model Policy. First, instead of the current provision in FDA's regulations that specifies that an IRB shall be sufficiently qualified through, among other factors, "* * * the diversity of the members' backgrounds including consideration of the racial and cultural backgrounds of members * * *," the agency proposes to substitute "* * * the diversity of the members, including consideration of race, gender, and cultural backgrounds * * *."

This proposed change would add gender to the considerations of diversity. The addition of gender emphasizes the importance of including both men and women as members of any IRB. FDA considers this change to be necessary in light of the change that it is proposing to make in § 56.107(b), which is discussed in paragraph 5 of this preamble.

In addition, to conform to the language contained in § ——.107(a) of the final Model Policy, FDA is proposing to modify the requirement in § 56.107(a) that an IRB that regularly reviews research that involves a vulnerable category of subjects include one or more individuals who are primarily concerned with the welfare of those subjects. FDA is proposing to require only that the institution (or other authority) that establishes the IRB consider including such an individual as a member of such an IRB. FDA expects that, even if it makes this change in its regulations, institutions will continue to appoint individuals to the IRB who are primarily concerned with the welfare of vulnerable subject populations in appropriate situations.

Finally, FDA proposes to add the following examples of vulnerable populations to § 56.107(a): Children, prisoners, pregnant women, or mentally disabled persons. FDA is proposing this change in the regulation to conform it to the final Model Policy and to make clear the types of human subjects that the agency considers to be "vulnerable populations."

5. In current § 56.107(b), FDA provides that an IRB may not consist entirely of men or entirely of women, or entirely of members of one profession. FDA proposes to revise § 56.107(b) to require that:

> Every nondiscriminatory effort will be made to ensure that no IRB consists entirely of men or entirely of women, including the institution's consideration of qualified persons of both sexes, so long as no selection is made to the IRB on the basis of gender. No IRB may consist entirely of members of one profession.

This language was developed by OSTP in consultation with the U.S. Department of Justice and is included in § _____.107(b) of the final Model Policy to make clear that an individual should not be appointed to an IRB solely because of gender. FDA proposes to revise § 56.107(b) accordingly.

As provided in § 56.107(a), however, in seeking diverse membership on the IRB, the institution must consider both men and women who can contribute to

the work of the IRB. Given the ready availability of well-qualified persons of both genders, FDA expects that only rarely, if ever, will an IRB consist solely of men or solely of women.

6. FDA proposes to revise § 56.107(c), which currently requires each IRB to include at least one member whose primary concerns are in nonscientific areas, to conform to the language contained in final § _____.107(c) of the Model Policy. As revised, § 56.107(c) would require that each IRB include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas. These changes should not affect any IRB that reviews research regulated by FDA. As described in the preamble to the 1981 IRB regulations (46 FR 8966), FDA's current regulations assume that an IRB will include at least one qualified scientist:

> * * * FDA emphasizes that § 56.107(a) requires that IRBs have as members persons with the professional competence necessary to review the proposed research. For example, FDA would expect that an IRB that reviews investigational new drug studies will include at least one physician.

FDA expects that institutions will continue to use good judgment and diligence in selecting as IRB members persons who can fulfill the requirements of § 56.107(a), so that persons of varying backgrounds will be included on any IRB to ensure complete and adequate review of the research activities.

Should FDA adopt the proposed amendment, in inspecting any IRB, the agency will continue to review an IRB's composition to ensure that its membership is appropriate for the research it is charged to review and may request that member ship be supplemented if complete and adequate review of the research does not appear possible.

IRB Functions and Operations

To be consistent with the language contained in § _____.103(b) (4) and (5) of the final Model Policy, FDA is proposing to remove § 56.108(a) (5) and (c), redesignate current § 56.108(b) as § 56.108(c), and add new § 56.108(b) that would state:

> Follow written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials, and the Food and Drug Administration of: (1) Any unanticipated problems or scientific misconduct involving risks to human subjects or others; (2) any instance of serious or continuing noncompliance with these regulations or the requirements or determinations of the IRB; and (3) any suspension or termination of IRB approval.

New § 56.108(b) would incorporate the requirements currently included in § 56.108(a) (5) and (c) of FDA's regulations, conform them to the final Model Policy, and respond to recommendations 7 and 8 of the President's Commission concerning scientific misconduct in research involving human subjects, as described in the preamble to the proposed Model Policy (51 FR 20209, 20210). New § 56.108(b) would effect three changes in FDA's regulations.

a. The major change is to require prompt reporting of scientific misconduct involving risks to human subjects or others while allowing institutions the flexibility to develop their own procedures. These procedures must assure that instances of scientific misconduct are promptly reported to the IRB, to appropriate institutional officials, and to FDA. Institutions will, therefore, be afforded flexibility in meeting the requirements of the regulations.

b. The current regulations require that an IRB follow written procedures that ensure prompt reporting to the IRB of unanticipated problems involving risks to subjects or others. Proposed § 56.108(b) would require that an IRB follow written procedures that ensure prompt reporting of unanticipated problems not only to the IRB but also to appropriate institutional officials and FDA.

c. Finally, FDA's current regulations provide that the IRB is responsible for reporting any instance of serious or continuing noncompliance with the regulations or the requirements or determinations of the IRB, and any suspension or termination of IRB approval, to appropriate institutional officials and to FDA. FDA is proposing to require that these responsibilities be reflected in the written procedures of the IRB.

These proposed changes would ensure that the IRB, the institution, and FDA are informed of problems and misconduct based on noncompliance with the regulations. Because of the importance that FDA attaches to ensuring that the IRB, the institution, and FDA are so informed, the agency has tentatively determined that the obligation to notify these bodies should be reflected in the IRB's written procedures.

Expedited Review Procedures for Certain Kinds of Research Involving No More Than Minimal Risk and for Minor Changes in Approved Research

8. FDA proposes to revise § 56.110(b) to conform it to the language contained in § 2.110(b) of the final Model Policy. The first and second sentences of § 56.110(b) currently provide that:

> An IRB may review some or all of the research appearing on [a list published in the **Federal Register** of January 27, 1981; 46 FR 8980] through an expedited review procedure, if the research involves no more than minimal risk. The IRB may also use the expedited review procedure to review minor changes in previously approved research during the period for which approval is authorized.

FDA proposes to revise this language to state:

> An IRB may use the expedited review procedure to review either or both of the following: (1) Some or all of the research appearing on the list and found by the reviewers to involve no more than minimal risk, (2) minor changes in previously approved research during the period (of 1 year or less) for which approval is authorized.

FDA believes that this change would not in any way change the substance of the regulation or the circumstances in which expedited review may be used.

Criteria for IRB Approval of Research

9. FDA proposes to revise § 56.111(a)(3) and (b) to conform its regulations to the language contained in § _____.111(a)(3) and (b) of the final Model Policy. As discussed below, these proposed revisions would both clarify and reinforce current regulatory requirements.

FDA would retain the current wording in § 56.111(a)(3), but at the end of the provision would add the phrase "and should be particularly cognizant of the special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons."

This proposed addition would conform § 56.111(a)(3) to the language contained in § ——.111(a)(3) of the final Model Policy and would reinforce the protections in § 56.107 for vulnerable populations.

FDA is proposing three changes in § 56.111(b) to conform it to the language contained in the Model Policy. The first proposed change would delete the phrase "such as persons with acute or severe physical or mental illness" from the examples given of subjects likely to be vulnerable to coercion or undue influence. Although this category of subjects would no longer be explicitly included in § 56.111(b), FDA would continue to regard these persons as being likely to be vulnerable to coercion or undue influence and would expect an IRB to ensure that appropriate additional safeguards have been

included in a study to protect the rights and welfare of such subjects. The second proposed change would clarify which groups of subjects are likely to be vulnerable to coercion or undue influence, by giving examples from § ——.111(b) of the final Model Policy. The groups mentioned are children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons. The third change that the agency is proposing is to delete the word "appropriate" from the requirement that, where necessary "* * * additional safeguards have been included in the study to protect the rights and welfare of these subjects." FDA expect that any additional safeguards that are recommended in a study would be appropriate to protect the rights and welfare of subjects included in the study, and, therefore, inclusion of the word "appropriate" is unnecessary.

IRB Records

10. FDA is proposing to revise § 56.115(a)(6) to cross-reference proposed § 56.108(b), which would require the IRB to follow written procedures for certain reporting requirements. The agency proposes this change for consistency with the Model Policy and, therefore, considers it to be minor.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) 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.

Paperwork Reduction Act of 1980

Sections 56.108(b) and 56.115 of this proposed rule contain collection of information requirements subject to approval by the Office of Management and Budget under the terms of the Paperwork Reduction Act. Comments on these requirements should be submitted to FDA's Dockets Management Branch (address above) and to Mr. Richard Eisinger, Office of Management and Budget, Executive Office of the President, Room 3002, New Executive Office Building, Washington, DC 20503.

Economic and Regulatory Assessments

FDA has examined the economic consequences of the proposed amendments to its regulations pertaining to any IRB and to informed consent in accordance with the criteria in section 1(b) of Executive Order 12291 and found that these amendments, if promulgated, would not be a major rule under the Executive Order. The agency also has considered the effect that the proposed rule would have on small entities including small businesses in accordance with the Regulatory Flexibility Act (Pub. L. 96–354). The agency certifies that there will not be a significant economic impact on a substantial number of small entities.

The proposed amendments are intended to being FDA's regulations on informed consent of human subjects that participate in clinical research (21 CFR Part 50) and on general standards for any IRB that reviews clinical investigations regulated by the agency (21 CFR Part 56) into conformance with the Model Policy to the extent possible. The proposed amendments have three kinds of impact.

First, there are nomenclature, definitional, and clarifying changes that do not alter the current usage or meaning of the terms in the regulations. These changes have no impact on IRB functions or operations.

Second, there are two changes that clearly benefit an IRB and the research community in general. One exempts certain taste and food quality evaluation studies from IRB review. The other allows for greater flexibility in determining the composition of any IRB.

Third, there is the change, responding to recommendations in the preamble to the Model Policy, which necessitates adding "unanticipated problems or scientific misconduct" to a list of items that are to be reported to the IRB, the institution, and to the agency, and requires the IRB to adopt and follow written procedures for two responsibilities held under the current regulations. Incorporating these requirements into existing IRB written procedures should require at most a paragraph. The agency does not consider this to be a material burden on any IRB, regardless of size.

Thus, these proposed amendments are considered to have no significant effect, either positive or negative, on the institutions overseeing clinical research.

Request for Comments

Interested persons may, on or before January 9, 1989, 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.

List of Subjects

21 CFR Part 50

Prisoners, Reporting and recordkeeping requirements, Research, Safety.

21 CFR Part 56

Reporting and recordkeeping requirements, Research, Safety.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, it is proposed that Parts 50 and 56 be amended as follows:

PART 50—PROTECTION OF HUMAN SUBJECTS

1. The authority citation for 21 CFR Part 50 is revised to read as follows:

Authority: Secs. 201, 406, 409, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 701(a), 706, and 801, Pub. L. 717, 52 Stat. 1040–1042 as amended, 1049–1054 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 72 Stat. 1785–1788 as amended, 74 Stat. 399–407 as amended, 76 Stat. 794–795 as amended, 90 Stat. 540–560, 562–574 (21 U.S.C. 321, 346, 348, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371(a), 376, and 381); secs. 215, 351, 354–360F, Pub. L. 410, 58 Stat. 690, 702 as amended, 82 Stat. 1173–1186 as amended (42 U.S.C. 216, 262, 263b–263n); 21 CFR 5.10.

2. In § 50.3 by revising paragraph (l) to read as follows:

§ 50.3 Definitions.

* * * * *

(l) "Minimal risk" means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

* * * * *

PART 56—INSTITUTIONAL REVIEW BOARDS

3. The authority citation for 21 CFR Part 56 is revised to read as follows:

Authority: Secs. 201, 406, 408, 409, 501, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 701(a), 706, and 801, Pub. L. 717, 52 Stat. 1040–1042 as amended, 1049–1054 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 68 Stat. 511–518 as amended, 72 Stat. 1785–1788 as amended, 74 Stat. 399–407 as amended, 76 Stat. 794–795 as amended, 90 Stat. 540–546, 560, 562–574 (21 U.S.C. 321, 346, 346a, 348, 351, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371(a), 376, and 381) secs. 215, 301, 351, 354–360F, Pub. L. 410, 58 Stat. 690, 702 as amended, 82 Stat. 1173–1186 as amended (42 U.S.C. 216, 241, 262, 263–263n); 21 CFR 5.10.

4. In § 56.102 by revising paragraph (i) and adding new paragraph (m) to read as follows:

§ 56.102 Definitions.

* * * * *

(i) "Minimal risk" means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

* * * * *

(m) "IRB approval" means the determination of the IRB that the research has been reviewed and may be conducted at an institution within the constraints set forth by the IRB and by other institutional and Federal requirements.

5. In § 56.104 by adding paragraph (d) to read as follows:

§ 56.104 Exemptions from IRB requirement.

* * * * *

(d) Taste and food quality evaluation and consumer acceptance studies, if wholesome foods without additives are consumed or if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

6. In § 56.107 by revising paragraphs (a), (b), and (c) to read as follows:

§ 56.107 IRB membership.

(a) Each IRB shall have at least five members, with varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution. The IRB shall be sufficiently qualified through the experience and expertise of its members, and the diversity of the members, including consideration of race, gender, and cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice. The IRB shall therefore include persons knowledgeable in these areas. If an IRB regularly reviews research that involves a vulnerable category of subjects, such as children, prisoners, pregnant women, or mentally disabled persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these subjects.

(b) Every nondiscriminatory effort will be made to ensure that no IRB consists entirely of men or entirely of women, including the institution's consideration of qualified persons of both sexes, so long as no selection is made to the IRB on the basis of gender. No IRB may consist entirely of members of one profession.

(c) Each IRB shall include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.

* * * * *

7. In § 56.108 by removing paragraph (c), redesignating paragraph (b) as paragraph (c), revising paragraph (a), and adding paragraph (b) to read as follows:

§ 56.108 IRB functions and operations.

* * * * *

(a) Follow written procedures (1) for conducting its initial and continuing review of research and for reporting its findings and actions to the investigator and the institution; (2) for determining which projects require review more often than annually and which projects need verification from sources other than the investigators that no material changes have occurred since previous IRB review; (3) for ensuring prompt reporting to the IRB of changes in a research activity; and (4) for ensuring that changes in approved research, during the period for which IRB approval has already been given, may not be initiated without IRB review and approval except where necessary to eliminate apparent immediate hazards to the human subjects.

(b) Follow written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials, and the Food and Drug Administration of (1) any unanticipated problems or scientific misconduct involving risks to human subjects or others; (2) any instance of serious or continuing noncompliance with these regulations or the requirements or determinations of the IRB; and (3) any suspension or termination of IRB approval.

* * * * *

8. In § 56.110 by revising paragraph (b) to read as follows:

§ 56.110 Expedited review procedures for certain kinds of research involving no more than minimal risk and for minor changes in approved research.

* * * * *

(b) An IRB may use the expedited review procedure to review either or both of the following: (1) some or all of the research appearing on the list and found by the reviewers to involve no more than minimal risk, (2) minor changes in previously approved research during the period (of 1 year or less) for which approval is authorized. Under an expedited review procedure, the review may be carried out by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB. In reviewing the research, the reviewers may exercise all of the authorities of the IRB except that the reviewers may not disapprove the research. A research activity may be disapproved only after review in accordance with the nonexpedited procedure set forth in § 56.108(c).

* * * * *

9. In § 56.111 by revising paragraphs (a)(3) and (b) to read as follows:

§ 56.111 Criteria for IRB approval of research.

(a) * * *

(3) Selection of subjects is equitable. In making this assessment the IRB should take into account the purposes of the research and the setting in which the research will be conducted and should be particularly cognizant of the special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.

* * * * *

(b) When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

10. In § 56.115 by revising paragraph (a)(6) to read as follows:

§ 56.115 IRB records.

(a) * * *

(6) Written procedures for the IRB as required by § 56.108 (a) and (b).

* * * * *

James S. Benson,

Acting Commissioner of Food and Drugs.

Otis R. Bowen,

Secretary of Health and Human Services.

Dated: August 9, 1988.

[FR Doc. 88-25553 Filed 11-9-88; 8:45 am]

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Thursday
November 10, 1988

Part III

Department of Education

Consolidated Application Package for Fiscal Year 1989; Notice

DEPARTMENT OF EDUCATION

Consolidated Application Package for Fiscal Year 1989

AGENCY: Department of Education.

ACTION: Notice inviting applications for certain new direct grant awards.

SUMMARY: The Secretary gives notice inviting applications for new direct grants under the Handicapped Children's Early Education Program and Postsecondary Education Programs for Handicapped Persons.

This notice consists of three Sections and an Appendix. Section I provides background information and discusses the purpose of this notice. Section II contains two lists of program application notices and application information that pertains to the programs in each list. Section III provides information regarding applicable procedures under Executive Order 12372, Intergovernmental Review of Federal Programs. The Appendix contains the basic application form and instructions for completing the form. No separate application package is necessary to apply under the programs announced in this notice.

The estimates of funding levels in this notice do not bind the Department of Education to a specific number of grants or level of funding, unless otherwise specified by statute or regulation.

It is the policy of the Department of Education not to solicit applications before the publication of final priorities. However, in this case it is essential to solicit applications on the basis of the notice of proposed priorities for these competitions, as published in the **Federal Register** on September 29, 1988, 53 FR 38254, because many of these projects will require cooperative planning efforts among grantees and State and local agencies and that projects need to be in place at the beginning of the 1989–90 school year.

Further, the Secretary has received only a few comments regarding these priorities. None of the commenters objected to the priorities, but rather offered suggestions for modification in their focus. It is not anticipated that substantive changes will be made in the final priorities. However, if any substantive changes are made in the final priorities for these programs, applicants will be given an opportunity to revise or resubmit their applications.

DATES: The closing dates for transmitting applications under this notice are listed in Section II of this notice.

ADDRESS: Applications are to be mailed to the following address: U.S. Department of Education, 400 Maryland Avenue SW., Application Control Center, Washington, DC 20202–4725. See Section III for detailed information relate to hand-delivered applications.

FOR FURTHER INFORMATION CONTACT: For specific information concerning a particular program, contact the Program Contact cited in the application notice in section II applicable to the program.

Section I—Background Information

The purpose of this notice is to inform potential applicants of closing dates for the transmittal of applications for certain grants issued by the U.S. Department of Education.

Application closing dates are listed in section II of this notice.

Applicants who decide to apply under one or more program priority covered by this notice should submit an application for each program priority and follow the specific instructions established for each program, as described in section II.

Closing dates and procedures may vary from program to program. The charts in section II inform potential applicants of: Title of the program; Title of program priority and Catalog of Federal Domestic Assistance (CFDA) number; Deadline for transmittal of Applications (closing date); Deadline for Intergovernment Review; Expected available funds; Estimated range of awards; Estimated size of awards; and Expected project period. To ensure expeditious processing of their respective applications, applicants are particularly requested to make certain that the correct CFDA number for the priority addressed in the application appears on each application. Following the chart is the program specific information: the purpose of the program, applicable regulations, information contact person, description of programmatic priorities, and other program information and specific requirements not covered in the application form in the Appendix.

Section II—Program Application Notices

This section contains (1) a listing of application notices for new awards for FY 1989 and (2) specific application information and requirements for individual programs.

Paperwork Reduction Act of 1980

This combined application package contains no new information collection requirements. The information collection requirements contained herein have been approved by the Office of Management and Budget under OMB control number 1820–0028.

TITLE OF PROGRAM: HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM

[Application notices for fiscal year 1989]

Title and CFDA Number	Deadline for transmittal of applications	Deadline for Intergovernmental review	Available funds	Estimated range of awards	Estimated size of awards	Estimated number of awards	Project period in months
Nondirected Demonstration (CFDA No. 84.024B1)	Jan. 12, 1989	Mar. 12, 1989	$550,000	$80,000 to 125,000	$110,000	5	Up to 36.
Nondirected Experimental Projects [1] (CFDA No. 84.024H1).	Jan. 12, 1989	Mar. 12, 1989	1,500,000	80,000 to 150,000	125,000	4	Up to 36.

[1] Nondirected Experimental projects are forward funded for three years.

Title of Program: Handicapped Children's Early Education Program CFDA No. 84.024

Purpose: To provide Federal support for a variety of activities designed to address the special problems of infants and children with handicaps, from birth through age eight and their families, and to assist State and local entities in expanding and improving programs and services for these children and their families. Activities include demonstrations, outreach, experimental, research and training projects, and research institutes.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 79, and 80, and (b) The Handicapped Children's Early Education Program, 34 CFR Part 309, as amended August 11, 1987 (52 FR 29816).

Priorities: The Secretary announces, pursuant to 34 CFR 75.105(c)(3), the following priorities for the Handicapped Children's Early Education Program. The Secretary will give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary will select for funding only those applications that meet these priorities.

Priority 1. Nondirected Demonstrations (CFDA No. 84.024)

This priority supports demonstration projects that develop, implement, and evaluate new or improved approaches for serving young children with handicaps (ages birth through eight). Projects funded under this priority must design models that allow young children with handicaps to achieve their optimal functioning level within normalized, nonsegregated environments.

Applications must describe (1) the specific service problem or issue that the project will address; (2) the specific components or procedures of the model and the rationale, based on theory, research, or practice evaluation, for those components or procedures; (3) the specific types of students participating in the project (i.e., age, handicapping condition or diagnosis, level of functioning) and (4) an evaluation design that includes functional outcome measures for the young children with handicaps who participate in the proposed intervention(s). Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for developing interventions for young children with handicaps. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the interventions and the contexts in which they were implemented as well as available cost information.

The Secretary particularly invites applications for demonstration projects that develop models for delivering, coordinating, or supplementing needed developmental, special educational, or related services to infants, toddlers, or preschool-aged children with handicaps who are in day-care programs (home-based, center-based, or home or center based in conjunction with part-day special education preschool programs). This invitational priority responds to the growing number of young children, including children with handicaps, who are placed in day-care services to accommodate the child-care needs of working parents. However, applications that meet this invitational priority will not receive a competitive preference over applications for demonstration projects that develop, implement, and evaluate new or improved approaches for serving young children with handicaps (ages birth through eight).

Priority 2. Nondirected Experimental Projects (CFDA No. 84.024)

This priority supports investigations of alternative interventions or approaches for serving infants, toddlers, or preschool-aged children with handicaps. Interventions selected for comparison must include those for which information is unavailable regarding their relative effectiveness for particular groups of children or within particular settings or conditions. Projects supported under this priority must:

(1) Compare the alternative interventions or approaches in typical service settings;

(2) Conduct the investigations using methodological procedures that will produce unambigious findings regarding the relative effectiveness of the alternative strategies as well as any findings as to interaction effects between particular approaches and particular groups of children or particular contexts; and

(3) Include dissemination activities that will lead to improved services for infants, toddlers, or preschool-aged children with handicaps.

Applications must describe (1) the specific problem or issue that the project will address; (2) the specific approaches or interventions that will be compared or validated, including the rationale for selecting particular approaches and previous evaluation information regarding these approaches; (3) specifically, the children targeted by the project (i.e., age, handicapping condition or diagnosis, level of functioning); and (4) an evaluation design that includes functional outcome measures for the young children with handicaps or their families who participate in the proposed intervention(s). Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for developing interventions for young children with handicaps. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the interventions and the contexts in which they were implemented as well as available cost information.

The Secretary particularly invites applications that compare alternative approaches to assessing family strengths and needs as part of the process for developing the individualized family service plans (IFSP) required under Part H of the Education of the Handicapped Act. Such projects could compare approaches, instruments, or tools commonly used for family assessment across disciplines or within a single discipline to determine their relative effects on the strength and needs identified, on the process for developing the IFSP, on the document itself, and on the satisfaction of participants in the planning process, including families of infants and toddlers with handicaps. However, applications that meet the invitational priority will not receive a competitive preference over other applications for projects that investigate alternative interventions or approaches for serving infants, toddlers, or preschool-aged children with handicaps.

Eligible Applicants: Public agencies and nonprofit private organizations may apply for an award under any of the priorities.

For Applications or Information Contact: Susan Fowler or Joseph Clair, Office of Special Education Programs, Division of Educational Services, U.S. Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 4620–2644), Washington, DC 20202. Telephone: Susan Fowler (202) 732–1068; Joseph Clair (202) 732–4503.

Program Authority: 20 U.S.C. 1424.

(Catalog of Federal Domestic Assistance No. 84.024; Handicapped Children's Early Education Program)

Selection Criteria: The Secretary uses the following criteria under 34 CFR Part 309 to evaluate an application. References to the Act refer to the Education of the Handicapped Act.

(a) *Importance.* (15 points)

(1) The Secretary reviews each application to determine the extent to which the proposed project addresses concerns in light of the purposes of this part.

(2) The Secretary considers—

(i) The significance of the problem or issue to be addressed:

(ii) The extent to which the project is based on previous research findings related to the problem or issue:

(iii) The numbers of individuals who will benefit; and

(iv) How the project will address the identified problem or issue.

(b) *Impact.* (15 points)

(1) The Secretary reviews each application to determine the probable impact of the proposed project in meeting the needs of children with

handicaps, birth through age eight, and their families.

(2) The Secretary considers—

(i) The contribution that project findings or products will make to current knowledge and practice;

(ii) The methods used for dissemination of project findings or products to appropriate target audiences; and

(iii) The extent to which findings or products are replicable, if appropriate.

(c) *Technical soundness.* (35 points)

(1) The Secretary reviews application to determine the the technical soundness of the project plan;

(2) In reviewing applications under this part, the Secretary considers—

(i) The quality of the design of the project:

(ii) The proposed sample or target population, including the numbers of participants involved and methods that will be used by the applicant to ensure that participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition;

(iii) The methods and procedures used to implement the design, including instrumentation and data analysis; and

(iv) The anticipated outcomes.

(3) With respect to training projects, in applying the criterion in paragraph (c)(2)(iii) of this section, the Secretary considers—

(i) The curriculum, course sequence, and practica leading to specific competencies; and

(ii) The relationship of the project to the comprehensive system of personnel development plans required by Parts B and H of the Act, and State licensure or certification standards.

(4) In addition to the criteria in paragraph (c)(2) of this section, the Secretary, in reviewing outreach projects, also considers—

(i) The agencies to be served through outreach activities;

(ii) The current services, their location, and anticipated impact of outreach assistance for each of those agencies;

(iii) The model demonstration project upon which the outreach project is based, including the effectiveness of the model program with children, families, or other recipients of project services; and

(iv) The likelihood that the demonstration project will be continued and supported by funds other than those available through this part;

(d) *Plan of operation.* (10 points)

(1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary considers—

(i) The extent to which the management plan will ensure proper and efficient administration of the project;

(ii) Clarity in the goals and objectives of the project;

(iii) The quality of the activities proposed to accomplish the goals and objectives;

(iv) The adequacy of proposed timelines for accomplishing those activities; and

(v) Effectiveness in the ways in which the applicant plans to use the resources and personnel to accomplish the goals and objectives.

(e) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating project goals, objectives, and activities.

(2) The Secretary considers the extent to which the methods of evaluation are appropriate and produce objective and quantifiable data.

(f) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use.

(2) The Secretary considers—

(i) The qualifications of the project director and project coordinator (if one is used);

(ii) The qualifications of each of the key project personnel;

(iii) The time that each person referred to in paragraphs (f)(2)(i) and (ii) of this section will commit to the project; and

(iv) How the applicant will ensure that personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(3) The Secretary considers experience and training in areas related to project goals to determine qualifications of key personnel.

(g) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application to determine adequacy of resources allocated to the project.

(2) The Secretary considers the adequacy of the facilities and the equipment and supplies that the applicant plans to use.

(h) *Budget and cost-effectiveness.* (5 points)

(1) The Secretary reviews each application to determine if the project has an adequate budget.

(2) The Secretary considers the extent to which—

(i) The budget for the project is adequate to undertake project activities; and

(ii) Costs are reasonable in relation to objectives of the project.

TITLE OF PROGRAM: POSTSECONDARY EDUCATION PROGRAMS FOR HANDICAPPED PERSONS

[Application notices for fiscal year 1989]

Title and CFDA Number	Deadline for transmittal of applications	Deadline for Intergovernmental review	Available funds	Estimated range of awards	Estimated size of awards	Estimated number of awards	Project period in months
Nondirected Demonstration (CFDA No. 84.078C1)	Jan. 13, 1989	Mar. 13, 1989	$800,000	$60,000–90,000	$75,000	10	Up to 36

Title of Program: Postsecondary Education Programs for Handicapped Persons CF DA No: 84.078.

Purpose: To develop, operate, and disseminate specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for individuals with handicapping conditions.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 79, and 80, and (b) The regulations for Postsecondary Education Programs for Handicapped Persons, 34 CFR Part 338.

Priorities: The Secretary announces pursuant to 34 CFR 75.105(c)(3), the following priority for fiscal year 1989. The Secretary will give an absolute preference to applications that meet this priority; that is, the Secretary will select for funding only those applications proposing projects that meet this priority.

Priority: Postsecondary Demonstration Projects. (CFDA 84.078C)

This priority supports model projects which provide individuals with mild or moderately disabling conditions other than deafness with adapted or specially designed programs that coordinate, facilitate, and promote the provision of appropriate education of these individuals with their nondisabled peers. These projects are to be targeted to improve the vocational outcomes for youths and adults who have completed or left secondary school programs and who are in need of additional education or training in order to secure and maintain competitive employment. Applicants under this priority must describe in detail how they will accomplish the following tasks:

(1) Establish strategies for use in locating and serving youth and adults with disabilities who are in need of continued educational services;

(2) Establish or make use of existing formal cooperative relationships among and between schools (public secondary and higher educational institutions), vocational rehabilitation agencies, and potential employers;

(3) Develop individualized programs that detail the goals and objectives necessary for students to obtain the requisite skills for securing competitive employment;

(4) Achieve appropriate job placements for persons with disabilities served by the project through short term postsecondary educational interventions;

(5) Provide follow-up and follow-along activities for persons with disabilities placed in jobs by the project; and

(6) Propose training of project participants in relevant aspects of adjustment to the community as well as the workplace.

Eligible Applicants: State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other nonprofit educational agencies.

Selection Criteria: The Secretary uses the weighted criteria in this section to evaluate applications for new awards. The maximum score for all the criteria is 100 points.

(a) *Plan of Operation.* (25 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of Key Personnel:* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its non-discriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers experience and training in fields related to the objectives of the project as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 75.590, *Evaluation by the grantee.)*

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Continuation of program.* (5 points)

(1) The Secretary reviews each application for information that shows that the activities to be supported are likely to be continued after Federal funding ends.

(2) The Secretary looks for information that shows the likelihood that the services provided under the proposed program will be continued by the applicant following the expiration of the Federal funding, as measured by evidence of financial and other commitment of the applicant to the program.

(g) *Importance.* (10 points)

(1) The Secretary reviews each application for information demonstrating that the proposed project is nationally important in light of the purposes of this part.

(2) The Secretary looks for information that shows—

(i) The significance of the problem or issue to be addressed;

(ii) The importance of the proposed project in increasing the understanding of the problem or issue, and in remediating or compensating for it;

(iii) The experiences of service providers related to the problem or issue; and

(iv) Previous research findings related to the problem or issue.

(h) *Impact* (15 points)

The Secretary reviews each application for information that shows the probable impact of the proposed research or demonstration activities in improving postsecondary education for handicapped individuals, including—

(1) The contribution that the research or demonstration findings or products will make to current knowledge or practice; and

(2) The extent to which findings and products will be disseminated to, and used for the benefit of, appropriate target groups.

(Authority: 20 U.S.C. 1424a)

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Exceutive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the Single Point of Contact for each State and follow the procedure established in those States under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on November 18, 1987, pages 44338–44340.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# [applicant must insert number and letter], U.S. Department of Education, MS 6403, 400 Maryland Avenue, SW., Washington, DC 20202–0125. Proof of mailing will be determined on the same basis as applications.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #[applicant must insert number and letter]), Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA#[applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped, self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into three parts. These parts are organized in the same manner that the submitted application should be organized. The parts are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification regarding Debarment, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form GCS–008) and instructions.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS–009) and instructions. (Note: Ed Form GCS–009 is intended for the use of primary participants and should not be transmitted to the Department.)

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certification. However, the application form, the assurances, and the certification must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

For Further Information Contact: Joseph Clair, Division of Educational Services, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 4620–2644), Washington, DC 20202. Telephone: Joseph Clair (202) 732–4503.

Dated: November 4, 1988.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

Appendix

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions. In general these questions and answers are applicable to all direct grant competitions covered by this combined application package.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to *all* applications. Waivers for individual applications *cannot* be granted, regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Current Government-wide policy is that only an original and two copies need be submitted. The binding of applications is optional. At least one copy should be left unbound to facilitate any necessary reproduction. Applicants should not use foldouts, photographs, or other materials that are hard to duplicate.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, but it may not be worth the postage. A properly prepared application should meet the specifications of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate. What should I do?

A. We are happy to discuss the questions with you and provide clarification on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous contact is not required, nor does it guarantee the success of the application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of competitions with closing dates at about the same time.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with *anyone* reviewed under a different competition from the one you intended.

Q. Will my application be returned if I am not funded?

A. We no longer return original copies of unsuccessful applications. Thus, applicants should retain at least one copy of the application. Copies of reviewer comments will be mailed to applicants who are not successful.

Q. How should my application be organized?

A. The application narrative should be organized to follow the exact sequence of the components in the selection criteria of the regulations pertaining to the specific program competition for which the application is prepared. In each instance, a table of contents and a one-page abstract summarizing the objectives, activities, project participants, and expected outcomes of the proposed project should precede the application narrative.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed (i.e. travel for data collection, etc.). Because we may request the principal investigator or director of funded projects to attend an annual meeting, you may also wish to include a trip to Washington, DC in the travel budget. Travel conferences is sometimes allowed when it is for the purpose of dissemination.

Q. If my application receives a high score from the reviewer, does that mean that I will receive funding?

A. No. It is often the case that the number of applications scored highly by or approved by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of the applications and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations, technical and budget issues may be raised. These are issues that have been identified during panel and staff review and require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. If my application is successful can I assume I will get the estimated/projected budget amounts in subsequent years?

A. No. The estimate for subsequent year project costs is helpful to us for planning purposes but it in no way represents a commitment for a particular level of funding in subsequent years. Grantees having a multi-year project will be asked to submit a continuation application and a detailed budget request prior to each year of the project.

Q. What is a cooperative agreement and how does it differ from a grant?

A. A cooperative agreement is similar to a grant in that its principal purpose is to provide assistance for a public purpose of support or stimulation as authorized by a Federal statute. A cooperative agreement differs from a grant because of the substantial involvement anticipated between the executive agency (in this case the Department of Education) and the recipient during the performance of the contemplated activity.

Q. Is the procedure for applying for a cooperative agreement different from the procedure for applying for a grant?

A. No. If the Department of Education determines that a given award should be made by cooperative agreement rather than a grant, the applicant will be advised at the time of negotiation of any special procedures that must be followed.

Q. How do I provide an assurance?

A. Simply state in writing that you are meeting a prescribed requirement.

Q. How long should an application be?

A. The Department of Education is making a concerted effort to reduce the volume of paperwork in discretionary program applications. The scope and complexity of projects is too variable to establish firm limits on length. Your application should provide enough information to allow the review panel to evaluate the significance of the project against the criteria of the competition. It is helpful to include in the appendices such information as:

(1) Staff qualifications. These should be brief. They should include the person's title and role in the proposed project and contain only information relevant to the proposed project. Qualifications of consultants and advisory council members should be provided and be similarly brief.

(2) Assurance of participation of an agency other than the applicant if such participation is critical to the project,

including copies of evaluation instruments proposed to be used in the project in instances where such instruments are not in general use.

Q. How can I be sure that my application is assigned to the correct competition?

A. Applicants should clearly indicate in Block 10 of the face page of their application (Standard form 424) the CFDA number and the title of the program priority (e.g., 84.023) representing the competition in which the application should be considered. If this information is not provided, your application may inadvertently be assigned and

Q. Where can copies of the **Federal Register**, program regulations, and federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238.

BILLING CODE 4000–01–M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION:		2. DATE SUBMITTED	Applicant Identifier
Application ☐ Construction ☐ Non-Construction	*Preapplication* ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State — H. Independent School Dist.
B. County — I. State Controlled Institution of Higher Learning
C. Municipal — J. Private University
D. Township — K. Indian Tribe
E. Interstate — L. Individual
F. Intermunicipal — M. Profit Organization
G. Special District — N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d) Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f) The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

PART III - PROGRAM NARRATIVE

A. New Grants

Prepare the program narrative statement in accordance with the following instructions for all new grants programs and all new functions or activities for which support is being requested.

Note that the program narrative should encompass each program and each function or activity for which funds are being requested (see Sections A and B in Part II). Relevant selection criteria (included in this package) should be carefully examined for criteria upon which evaluation of an application will be made and the program narrative must respond to such criteria under the related headings below. The program narrative should begin with an overview statement (Abstract) of the major points covered below.

1. OBJECTIVES AND NEED FOR THIS ASSISTANCE

Describe the problem and demonstrate the need for assistance and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used.

Any relevant data based on planning studies should be included or footnoted. Projects involving Demnstration/Service activities should present available data, or estimates for need in terms of number of handicapped childen (by type of handicap and by type of service) in the geographic area involved.

Projects involving Training should present available data, or estimates, for need in terms of number of personnel by position type (e.g., teachers, teacher-aides) by type of handicap to be served. Documentation by the SEA should be supplied for 84.029 (Handicapped Personnel Preparation).

2. RESULTS OR BENEFITS EXPECTED

Identify results and benefits to be derived. Projects involved in Training and or Demonstration/Service activities should indicate the number of personnel to be trained or the number of children to served.

3. APPROACH

a. Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished for each grant program, function or activity provided in the budget. Cite factors which might accelerate or decelerate the work and your reason for taking this approach as opposed to others.

For example, an application for demonstration/service programs should describe the planned educational curriculum: the types of attainable accomplishments set for the children served; supplementary services including parent education; and the composition and responsibilities of an advisory council.

An application for a training program should describe the substantive content and organization of the training program, including the roles or positions for which students are prepared, the tasks associated with such roles, the competencies that must be acquired; the program staffing; and the practicum facilities including their use by students, accessibility to students and their staffing.

B. Provide for each grant program, function or activity, quantitative projections of the accomplishments to be achieved.

An applications for demonstration/service programs should project the number of children to receive demonstration/services by type of handicapping conditions, and number of persons to receive inservice training.

Training programs should project the number of students to be trained by type of handicapping condition.

For non-demonstratin/service and non-training activities of all programs, planned activities should be listed in chronological order to show the schedule of accpmplishment and their target dates.

C. Identify the kinds of data to be collected and maintained and discuss the criteria to be used to evaluate the results and successes of the project. For demonstration/service activities, evaluation procedures snould be related to the child-centered objectives set for project participants.

For all activities, explain the methodology that will be used to evaluate project accomplishments.

D. List organizations, cooperators, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Especially for demonstration/service activities, describe the liaison with community or State organizations as it affects project planning and accomplishments.

E. Present biographical sketch of the project director with the following information: name, address, telephone number, background, and other qualifying experience for the project. Also, list the names, training and background for other key personnel engaged in the project.

Note: The application narrative should not exceed 30 double-spaced, typed pages (on one side only).

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ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

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Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name And Title Of Authorized Representative

Signature Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion–Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding
Debarment, Suspension, and Other Responsibility Matters
Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202, telephone (202) 732-2505.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph(1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name And Title Of Authorized Representative

Signature Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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Federal Register

Thursday
November 10, 1988

Part IV

Department of Labor

Employment Standards Administration, Wage and Hour Division

29 CFR Parts 516 and 530

Employment of Homeworkers in Certain Industries; Records To Be Kept by Employers; Final Rule

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Parts 516 and 530

Employment of Homeworkers in Certain Industries; Records To Be Kept by Employers

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Final rules.

SUMMARY: This document provides a final rule on restrictions affecting the employment of industrial homeworkers in certain industries under section 11(d) of the Fair Labor Standards Act (FLSA). It also provides a final rule amending the recordkeeping requirements imposed pursuant to section 11(c) of the FLSA for all covered employers of homeworkers. There are presently six industries in which homework is banned under section 11(d) of the FLSA unless special individual certificates are obtained. The six industries are: Women's apparel, jewelry manufacturing, gloves and mittens, button and buckle manufacturing, handkerchief manufacturing, and embroideries. (Under a rule adopted in 1984, homework is permitted in the knitted outerwear industry, provided the employer first obtains a certificate from the Department of Labor.) For the reasons discussed below, the Department has decided that the current restrictions should be modified.

Under the final rule, the women's apparel industry and activities in the jewelry industry not identified herein as nonhazardous remain subject to the same restrictions on homework as in the prior rule. Any employer who wishes to employ homeworkers in the remaining restricted industries must first obtain a certificate from the Department authorizing such employment. Employers in the knitted outerwear industry must obtain new certificates in accordance with this rule. Any such employer who does not first obtain a certificate cannot legally employ homeworkers (other than those homeworkers for whom special certificates have been issued under certain specified conditions) and is subject to the restrictions and sanctions provided by the FLSA. Also, a number of clarifying changes have been made in the text of the final rule.

EFFECTIVE DATE: January 9, 1989. The paperwork requirements of this regulation §§ 530.102, 530.103, 530.202, and 516.31(c)) are effective January 9, 1989, provided they have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980, as amended. If they are not approved by January 9, 1989, a notice will be published in the Federal Register delaying the effective date.

FOR FURTHER INFORMATION CONTACT: Paula V. Smith, Administrator, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523–8305. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, the recordkeeping provisions that are included in these rules, including revisions to the homeworker handbooks, have been submitted to the Office of Management and Budget for approval. The Wage and Hour Division has requested an expedited review of its submission under the Act, to be completed within 30 days of the date of publication in the Federal Register. A copy of the submission is being separately published in the Federal Register for the convenience of the public.

Public reporting burden for this collection of information, including the time for reviewing instructions, searching data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, is estimated to average, per response: (1) Homework application (§ 530.102 and .103)—½ hour; (2) piecework measurement documentation (§ 530.202)—1 hour per measurement plus 1 minute for filing; (3) homeworker handbook (§ 516.31(c))—½ hour completion time by the homeworker plus ½ minute for filing by the employer. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Washington, DC 20503.

Background

Statutory Provisions and History of Homework Regulations

Section 11(d) of the FLSA provides that the Secretary of Labor is "authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this Act." Pursuant to this authority, the Secretary has issued regulations, published as Part 530 of Title 29 of the Code of Federal Regulations. As originally issued in the 1940's, these regulations restricted the employment of industrial homework in seven industries: Knitted outerwear; women's apparel; jewelry manufacturing; gloves and mittens; button and buckle manufacturing; handkerchief manufacturing; and embroideries. Homework in other industries has not been restricted. The regulations essentially provide that the production of goods in these restricted industries may not be carried on by employees in or about a home, apartment, tenement, or room in a residential establishment except by a certified homeworker. Under specified conditions, an employer may obtain a certificate for employees who are unable to adjust to factory work because of age or physical or mental disability or who are unable to leave home because their presence is required to care for an invalid there. Individuals may also be employed as industrial homeworkers in the restricted industries under the supervision of a sheltered workshop without obtaining a certificate under Part 530.

Final Rule Establishing a Certification System in Knitted Outerwear Industry Effective December 5, 1984

In 1980, in light of the fact that the homework regulations had been in effect for almost 40 years without substantive revision, the Department undertook a review of the status of industrial homework. The Department published a proposal in the Federal Register on May 5, 1981 (46 FR 25108) to remove the existing restrictions on homework in all seven industries. On October 9, 1981, after reviewing the entire record, the Department issued a final rule rescinding the restrictions on the employment of homeworkers in the knitted outerwear industry only (46 FR 50348).

This rulemaking action was challenged in court by the International Ladies' Garment Workers' Union (ILGWU), various knitgoods manufacturers, the New York and California State Labor Commissioners, and others who sought to enjoin the rescission. The United States District Court for the District of Columbia upheld the rule. However, on November 29, 1983, the Court of Appeals for the District of Columbia Circuit vacated the rescission of the restriction and remanded the case to the district court resulting in the reinstatement of

restrictions in the knitted outerwear industry on May 23, 1984.

The Court of Appeals ruled that the final rule had been promulgated in violation of the Administrative Procedure Act, in that the Department had failed to articulate adequately the reasons for its action (*ILGWU* v. *Donovan*, 722 F.2d 795 (DC Cir. 1983)). The court was concerned that the Department had failed to consider alternatives to the complete lifting of the ban, and that the record lacked factual support for the Department's assertion that an effective enforcement program would be feasible if the ban were lifted. In this connection, the court focused on four factors which arguably rendered the enforcement of the minimum wage for homeworkers difficult or impossible:

1. Difficulty of locating and identifying homeworkers;
2. Inadequate or nonexistent recordkeeping by employers and employees;
3. Strain on departmental resources required by excessive investigative time in homework cases; and
4. Difficulty in recovering back wages when violations were discovered.

Thereafter, the Department published a proposal on March 27, 1984 (49 FR 11786) to repromulgate a permanent rule rescinding the restrictions in knitted outerwear, and solicited comments on various alternatives to total rescission. A second comment period was announced on June 22, 1984 (49 FR 25641) inviting comments on the alternatives to total rescission, and, in particular, comments pertaining to licensing/registration of employers of industrial homeworkers.

On March 27, 1984, the Department also promulgated an "emergency" rule (49 FR 11792) temporarily rescinding the restrictions on homework in knitted outerwear for 120 days, to avoid potential disruption to homeworkers while the new rulemaking was pending. On May 8, 1984, the District Court ruled that the emergency rule was invalid, and ordered that it be rescinded forthwith.

On November 5, 1984, a final rule was published in the Federal Register (49 FR 44262) which permits the use of homeworkers in the knitted outerwear industry, provided the employer first obtains a certificate from the Department. Those knitted outerwear employers who do not obtain such certificates remain subject to the ban on homework and to the same restrictions applicable in the case of the other six restricted industries. The authority of the Department to promulgate this regulation was never challenged.

On August 21, 1986, the Department of Labor published a proposed rule which, if adopted, would have lifted the restrictions on the employment of homeworkers in all restricted industries for employers who first obtain certificates authorizing homework from the Department. Thus, the proposal would have expanded the certification program currently in effect in the knitted outerwear industry. The period for public comment on the proposed rule, after having been extended, expired on December 4, 1986.

A number of the commenters indicated their belief that the Department would face substantial difficulty in enforcing the FLSA under the proposal. Specifically, these commenters argued that the enforcement had been ineffective among employers of homeworkers in the knitted outerwear industry under the rule promulgated in 1984. The Department reviewed its enforcement experience in knitted outerwear in light of the issues raised in these comments and, recognizing the validity of some of the concerns raised, issued a revised proposal on March 30, 1988, which incorporated a number of provisions designed to improve and strengthen FLSA enforcements with respect to homeworkers. That notice also stated that any action with respect to the restrictions on homework in the women's apparel industry would be the subject of separate rulemaking proceedings. In addition, those manufacturing operations in the jewelry industry that were believed to be potentially hazardous were not included in the March 30, 1988, proposal. Thus, those portions of the August 21, 1986, proposal relating to the women's apparel and jewelry industries (other than those operations identified in the revised proposal as nonhazardous) were specifically withdrawn.

Increased Homeworker Enforcement Efforts

Since 1981, the Department has conducted a concerted compliance effort to detect violations of the FLSA among homeworkers. As part of this effort, the Department has given priority to investigating all complaints received involving homework, has followed up on all leads regarding employment of homeworkers, and has actively sought to ensure that homework activity, wherever it occurs, is in compliance with the FSLA. Between October 1981 and September 1987, 1,926 investigations of employers utilizing homeworkers were completed as compared with approximately 75 to 80 such investigations during the entire previous six-year period. Of the 1,926 investigations completed, 170 involved knitted outerwear employers; 573 were of other restricted industry employers; and the remaining 1,183 involved employers in nonrestricted industries.

The Department is fully committed to maintaining a strong and effective FLSA enforcement program in industries utilizing homeworkers and will continue to provide a sufficient level of resources to insure the accomplishment of this goal. In this regard, the FY 1989 Budget request submitted to the Congress included 20 additional full-time equivalent (FTE) positions for enforcement of the FLSA among employers of homeworkers. The Department will monitor its enforcement resource needs under this rule and take the necessary steps to ensure that appropriate resources are devoted to this effort.

Interest in Lifting the Remaining Restrictions on Homework

After the implementation of the certification system in the knitted outerwear industry, the Department received five petitions with 1,493 signatures requesting further deregulation of homework, as well as over 400 letters from individuals and organizations urging that the remaining homework restrictions be lifted. Among the reasons for wishing to work at home cited by employees were: The desire to be at home to care for their children; the inability to afford the costs of child care, transportation, clothing, and meals, if they had to work in a factory; the lack of transportation or the difficulty in commuting from their homes to a factory; the desire to set their own work schedules; and the ability to engage in farming operations or other pursuits while working part-time at home.

Individuals who wrote to the Department regarding the homework restrictions pointed to the inequity and incongruity of the prior regulations which permitted the manufacture at home of certain articles of clothing and prohibited the manufacture at home of other similar articles of clothing. For example, homeknitters whose employer obtained a certificate could knit sweaters and hats at home, but they could not knit mittens. The extension of the certification system to the extent practical and appropriate among the remaining restricted industries is intended to reduce these inequities.

Except for the 1981 and 1984 revisions to the homework regulations for the knitted outerwear industry, these regulations have not been substantively changed since the early 1940s. The underlying rationale behind the regulatory restrictions was that people

working in their homes in these industries would be more susceptible to abuse and federal minimum wage violations, as well as child labor exploitation. We now know that the Federal (and, in many cases, State) prohibition on homework in these industries did not eliminate such homework. Moreover, in the Department's view, the prohibition against any homework significantly increased the difficulty of locating homeworkers and ensuring that they have been properly paid. The ban on homework reduced an employee's incentive to file a complaint or cooperate in an investigation regarding minimum wage violations, since a substantiated complaint might have led to a loss of the homeworker's job. Unlike the certificate system, the ban provided no alternative basis for identifying firms employing homeworkers. Since homeworker employers operating in the restricted industries were operating in violation of the law simply by employing homeworkers, these employers had little incentive to comply with the FLSA wage provisions; if found by the Department, they could be compelled to discontinue their homework operations regardless of any minimum wage or overtime pay violations.

August 1986 Regulatory Proposal

The Department reviewed its experience with the certification system in the knitted outerwear industry which became effective December 5, 1984, and concluded that such a system was more effective in ensuring compliance with the minimum wage requirement of the FLSA than was the ban on homework. Accordingly, on August 21, 1986, the Department proposed to adopt a similar certification system in the remaining restricted industries (51 FR 30036). The comment period was subsequently extended to December 4, 1986 (51 FR 37045 as corrected by 51 FR 37296). A total of 19,206 comments were received on the August 1986 proposal, of which 8,020 argued in favor of lifting the ban on homework and 11,186 argued against. Included were 5,814 form letters and post cards opposed to the proposal; 235 form letters in favor. Not included in the above count of comments were 7,648 signatures on petitions in favor of the proposal and 953 signatures on petitions opposed.

March 1988 Regulatory Proposal

A number of commenters on the August 1986 proposal expressed concerns about the Department's ability to enforce the FLSA with respect to homeworkers in these industries. The Department reviewed its enforcement experience in knitted outerwear in light of these comments. Based on this review, and to address the concerns raised in the comments, the Department decided to include in the proposed rule a wider range of enforcement mechanisms to improve FLSA compliance among employers of homeworkers in the restricted industries. In addition, the Department decided to propose revisions to the homework handbook and other recordkeeping requirements in 29 CFR Part 516. These revisions to the August 1986 proposal were made in a March 30, 1988, proposal (53 FR 10342, as corrected by 53 FR 11590).

Furthermore, with respect to the women's apparel industry, the Department decided to continue to review the potential impact of lifting the ban on homework and thus withdrew its prior proposal to modify the existing homework ban in that industry in the March 1988 proposal. The proposal indicated that if the Department decided at a later date to lift the ban in women's apparel, such action would require separate rulemaking. With respect to the jewelry industry, in the March 1988 proposal, the Department withdrew its proposal to lift the ban on the employment of homeworkers except with respect to certain jewelry manufacturing operations which it believed do not involve safety and health hazards. Nonhazardous operations were specifically identified in the proposal as the stringing of beads and other jewelry, carding, and packaging. While the Department tentatively identified these operations as nonhazardous, it recognized that there might be other such safe operations. Comment was invited identifying any additional nonhazardous operations (as well as any operations identified as nonhazardous that might in fact be hazardous).

In the March 1988 notice, the Department also proposed to adopt a policy whereby certain employers who utilize so-called "model garment programs" would not be subject to any action by the Department simply for employing individuals who may work at home at times under certain specified conditions.

Pursuant to the March 1988 notice, the comment period was reopened to solicit views on these modifications to the August 1986 proposal. Notice was given that all comments received in response to the prior notice would continue to be part of the rulemaking record. These comments were considered in preparation of this final rule.

A total of 2,823 comments were received on the March 1988 proposal, of which 197 argued in favor of lifting the ban on homework and 2,626 argued against. The vast majority of the comments opposed consisted of one of several identical (or virtually identical) form letters.

Among the commenters supporting the lifting of the homework ban were five State Departments of Labor; American Farm Bureau Federation; National Federation of Independent Business; U.S. Small Business Administration; Federal Trade Commission; several business, civic, and religious groups; and a number of U.S. Senators and Representatives and other public officials.

Among the commenters opposing the lifting of the homework ban were the AFL–CIO and a number of affiliated unions, including the International Ladies' Garment Workers' Union (ILGWU), Service Employees International Union (SEIU), Amalgamated Clothing and Textile Workers Union (ACTWU), and National Council of Field Labor Lodges (NCFLL); five former Secretaries of Labor and several former Wage and Hour Division officials; 13 State Departments of Labor; a large number of religious, civic, and community organizations; and a number of U.S. Senators and Representatives and other public officials.

Discussion of Issues and Analysis of Comments

The Department recognizes the deeply-held views on all sides of this complex issue. The strong feelings about the employment of homeworkers were highly evidenced in the comments, as discussed below.

I. Enforcement Mechanisms Proposed in March 1988 and Included in the Final Rule

As indicated above, the March 1988 proposal included a number of additional enforcement mechanisms. All of these have been incorporated into this final rule.

The additional enforcement mechanisms were developed with the expectation that, while no single requirement or remedy is likely to ensure compliance with the FLSA, their impact would be cumulative, and the cumulative impact would enhance compliance. Among other things it was expected that experience with the new requirements would educate employers as to their responsibilities under the FLSA. Employers who understand and are willing to comply with the requirements of the FLSA in the

employment of homeworkers will be able to do so, and certificates will be revoked and other enforcement mechanisms utilized, as appropriate, where the Department discovers a lack of responsibility to comply with the Act. Vigorous efforts will simultaneously be taken to enforce the continuing ban with respect to employers without certificates.

With the exception of one commenter who questioned the need to retain the federal ban where it is prohibited under State law, no criticisms of the mechanisms were received from commenters favoring lifting of the restrictions. The main criticism of the mechanisms from commenters opposed to the proposal was that they were not a panacea and could not solve all of the problems of compliance with the FLSA with respect to homeworkers. No suggestions were made, however, as to any revisions that could be made to alleviate perceived shortcomings in individual mechanisms. Following is a discussion of each mechanism with any significant comments made on them:

(1) Phase-in of industries. In order to more efficiently utilize available resources, the certificate program will be phased-in in the remaining restricted industries on an industry-by-industry basis. This will give the Department the time to implement the rule in an orderly fashion and allow the Department to conduct investigations of the employers who apply for certification promptly after the issuance of the certificate, thereby providing the necessary assistance to enable them to fully comply with the FLSA from the outset.

As set forth in § 530.101, the phase-in of the certification program will take place on a graduated basis, beginning with the gloves and mittens industry and the embroideries industry, immediately upon the effective date of the final rule, and the permissible operations in the jewelry industry and the button and buckle manufacturing and handkerchief manufacturing industries six months later. Although the certification program is already in place in the knitted outerwear industry, the additional requirements set forth herein apply upon the effective date of this rule, and new certificates will need to be obtained in accordance with the provisions.

(2) Issue no certificates in States prohibiting homework. Prior to the issuance of certificates pursuant to this rule, the Department will contact those States with statutes which appear to prohibit homework in the federally-restricted industries in order to confirm whether such homework employment is illegal under State law. The States will be afforded thirty days in which to reply. In accordance with § 530.201, the Department will not issue a certificate authorizing the employment of homeworkers where the Governor (or authorized representative) has advised the Administrator in writing that the use of homeworkers in a federally-restricted industry conflicts with a State labor standards or health and safety law. This will avoid any possible confusion for employers in such States and eliminate any potential impact on State agency enforcement efforts.

(3) Regular renewal of certificates. Section 530.101 provides that certificates issued to employers of homeworkers in the restricted industries will be renewable at two-year intervals. Also, at the time of application and at each renewal, § 530.102 requires employers to furnish the Department with a listing of the names, addresses, and languages (other than English) spoken by the homeworkers that are currently employed (if any) or expected to be employed. Thus, the Department will have an additional mechanism for close monitoring of certified employers of homeworkers in these industries, and a system for distributing information such as handbooks and pamphlets. In addition, this requirement will assist the Department in assigning bilingual compliance officers to investigations of such employers.

The ILGWU was critical of the requirement that homeworker employers list the names and addresses of their homeworkers when they apply for a certificate, on the grounds that some employers may not hire homeworkers until after they are certified and if they do, they may fail to list them because it would expose their employment in violation of the FLSA or other statutes.

The Department is aware that many employers will apply for certificates prior to the employment or identification of their homeworkers, in which case the employers will not furnish the information until the time of application for renewal of their certificates. In the interim, of course, the employer is required under current recordkeeping requirements to have on file and make available to the Wage and Hour Division, when requested, the names and addresses of all employees. This (together with any leads obtained) will continue to be Wage-Hour's primary source of information regarding homeworkers. The list of homeworkers provided with the certificate application will simply be a convenient means available for Wage-Hour to contact directly those employees and to learn about languages spoken (for handbooks and investigation scheduling). Finally, the Department recognizes that if an employer decides to operate in violation of labor standards he or she is not likely to provide an accurate list of employees. The purpose of the certificate program is to facilitate employment of homeworkers by employers who wish to comply with the FLSA. There are enforcement remedies available to deal with those who do not.

(4) Conditions of certification. To insure that employers of homeworkers are fully aware of their regulatory and statutory obligations in employing homeworkers, the rule at § 530.103 adds a requirement to the process of application for certification that the employer provide written assurance that all homeworkers will be employed in compliance with the provisions of the FLSA and all applicable regulations with respect to the payment of wages, employment of minors, and recordkeeping. The employer must further assure compliance with the requirements of Parts 516 and 530 with respect to maintenance of homeworker handbooks and calculation of piece rates, and encourage all homeworkers to cooperate with the Department in any investigation that may be made. The final rule has been revised to include that employers must assure that they will instruct homeworkers to accurately fill out homeworker handbooks and that employers in jewelry manufacturing must assure that homeworkers will be limited to certain nonhazardous activities.

Several commenters stated that the assurances would have no effect because employers either did not know the requirements of the law or did not observe the number of compensable hours their employees worked at home. The ILGWU commented that proof of a false assurance would be difficult and that it is inconsistent to require assurance of compliance with the law, implying knowledge of the law, and then at the same time consider ignorance of the law as a factor in assessment of civil money penalties. The majority members of the House Committee on Education and Labor commented that there is no penalty for knowingly making a false assurance.

The Department views the requirement of employer assurances as primarily a mechanism for assuring that employers are aware of their duties under the FLSA, and believes that their public acknowledgement of their legal responsibilities will focus their attention on the law's requirements and have a deterrent effect on violations. We also anticipate that execution of the assurances will assist the Department in

the establishment of willful or knowing violations for purposes of assessment of civil money penalties and collection of back wages and liquidated damages in litigation. With respect to the employer's ignorance of the law as a factor in setting civil money penalties, the Department recognizes that even conscientious employers may not be familiar with all the technicalities of the FLSA. As to the comment of the Committee, if it could be established that an employer gave false assurances, ordinarily his or her certificate would be denied or revoked. Civil money penalties are also available as a sanction against employers whose incorrect assurances are not so severe as to warrant denial or revocation of a certificate. Criminal sanctions for false assurances may also be available under 18 U.S.C. 1001 in appropriate cases.

(5) Wage-Hour investigation procedures. Under § 530.105, any employer in a restricted industry who requests certification to employ homeworkers will be investigated promptly after the issuance of the certificate by the Department's Wage and Hour Division. Where such an employer is found to be in violation of the FLSA, corrects the violation(s) and promises future compliance, the firm will be reinvestigated to further assure that full FLSA compliance has been achieved.

(6) Improved homeworker handbook. This rule contains a number of initiatives to promote the accuracy of hours worked records for all homeworkers (including those in industries in which homework is not restricted). A simplified homeworker handbook has been developed to enable homeworkers to accurately record daily and weekly hours worked. While the prior handbook required a fairly detailed description of work done, e.g., style or lot number, article worked on, operation performed, etc., with a single "hours worked" total for each line entry, the new handbook gives primary attention to accurate recording of daily and weekly hours worked by providing time sheets with sufficient space for a homeworker to log in and out several times a day. The Department believes that this recordkeeping tool more closely approximates the reality of the homework situation in that it recognizes that homeworkers frequently start and stop working a number of times over the course of a day. The new handbook affords homeworkers a simple means to record their hours as they work, rather than to reconstruct the hours worked at the end of the day or week. In addition, in contrast to the prior rule in 29 CFR Part 516 which required that the employer personally enter the information into the handbook, § 516.31(c) requires the employer to insure that the hours worked and other information are accurately entered by the homeworker.

In addition to revising the format of the homeworker handbook, the Department has revised the instructions for filling out the handbook and has included a brief explanation of what constitutes "hours worked" under the FLSA. The new homeworker handbook will be published in several foreign languages, which is expected to reduce enforcement problems associated with language barriers. Presently, the Department is making arrangements to translate the handbook into Spanish, Chinese, Korean, Vietnamese, Cambodian and Laotian.

Under the revised homework recordkeeping regulations, employers are required to insure that the homeworker handbooks are completed accurately and in a timely fashion. In this regard, § 516.31 requires employers to sign a statement in each homeworker handbook that the homeworker was instructed to accurately record all of the required information regarding such homeworker's employment, and that, to the best of his or her knowledge and belief, the information was recorded accurately. The Department believes that the signing of a statement attesting to the validity of the information in the handbook will encourage the maintenance of accurate records.

In addition, a number of clarifying changes have been made to the homework recordkeeping rules in § 516.31

Several commenters stated two reasons why improved handbooks would not result in more accurate records of hours worked by homeworkers. They contend that homeworkers, like other workers, find it inconvenient to write down every time they start and stop working, particularly at home with frequent interruptions; and even if they are willing to keep accurate records, fear of retaliation from their employers makes it unlikely that they will turn in records requiring their employers to pay more wages.

The Department does not dispute the inconvenience of accurate recordkeeping in the home. This is true, however, not only in the home but also with respect to virtually every job where employees work by themselves without supervision. It has been the Department's experience that homeworkers did not understand the handbooks used previously, particularly the need to record all hours worked. The explanation in the handbook of how to record "hours worked" in the homework setting will greatly alleviate this problem. Accurate records will also be facilitated by the log in—log out format and the instructions will provide that the records be kept as the day progresses, rather than reconstructed at a later time—the most difficult problem with recordkeeping by unsupervised employees. Furthermore, the instructions will advise that short rest breaks (less than 20 minutes) are hours worked and such breaks need not be recorded.

With regard to fear of retaliation, it is anticipated that education of employers and employees concerning the consequences of inaccurate records, i.e., that the employer will not be permitted to employ any homeworkers, will encourage accurate recordkeeping. It has been our experience with certified knitted outerwear employers of homeworkers that most come into compliance or substantial compliance with the recordkeeping requirements affter an initial investigation and explanation of the requirements by Wage-Hour compliance officers. Furthermore, employers will be required to submit a written assurance that the homeworkers were instructed to accurately record the required information, and to sign a statement in each handbook that to the best of the employer's knowledge, the entries in the handbook are accurate.

(7) Piece rates—work measurement. Experience in enforcement of the FLSA with respect to homeworkers has shown that many homeworkers do not earn sufficient amounts at piece rates to meet the minimum wage. One apparent reason is that employers have often not set their piece rates high enough to insure that all the homeworkers will be paid at least the required hourly minimum wage. Consequently, as a condition for obtaining a certificate, employers who wish to pay piece rates (as opposed to hourly rates) to their homeworkers are required under § 530.202 to establish the piece rates for the different types of items produced using stop watch time studies or other work measurement methods.

The ILGWU commented that it is inconsistent to admit that the Department's compliance officers had difficulties performing time studies while at the same time expecting employers to perform them properly. They argued that the reasons for the deficiencies in the Department's time studies likewise would apply to those performed by employers.

The Department recognizes that piece rates established by employer time studies will not provide a measurement of hours worked by employees. The requirement that employers set piece rates through time studies or other work measurement methods is intended to help ensure that employers use a rational basis for setting piece rates. A review of the time studies will also assist compliance officers in identifying employers whose practices must be closely examined to ensure compliance with the Act. For example, if the piece rate is set to yield earnings only slightly above the minimum wage, violations are likely with regard to less skilled employees. Finally, the regulation emphasizes that each worker must always earn at least the minimum wage for all hours worked, even if paid at piece rates.

(8) Denial or revocation of a homework certificate. Upon finding violations of the FLSA, the Department has authority under sections 16(c) and 17 of the Act to seek back wages and injunctive relief through court action. The Administrator also has the authority, codified in section 11(d) of the Act, to ban homework if that is necessary to insure that homeworkers are not employed in violation of the minimum wage requirements of the Act. Instead of a total ban on homework, under this rule, the administrator will allow homework in four of the six remaining restricted industries and to a limited extent in a fifth (jewelry), upon the condition that the employer obtain a certificate and comply with the requirements of these regulations. In this regard, another means to obtain compliance with the FLSA is the denial or revocation of a homework certificate upon a determination by the Administrator of the failure of the applicant or certificate holder to comply with the FLSA, the regulations, and the assurances the applicant makes as a condition of obtaining a certificate. Since certificate holders have made certain assurances as a condition of obtaining a certificate, revocation of the certificate is appropriate when the certificate holder does not comply with these assurances. Depending on the circumstances, as described in the regulations, a certificate may be denied or revoked for a period of one to three years.

Several comments stated that the specific new criteria for denying or revoking a certificate will not promote the desired effect of increasing FLSA compliance because the Department has never fully utilized the remedies it has always had to achieve compliance: Back wage suites, injunction suits against the employment of homeworkers and denial of certificates in the knitted outerwear industry. The ILGWU commented that revocation of a certificate is less likely to occur under these specific standards than under the prior discretionary provisions for denial or revocation of a certificate. Several comments stated, on the other hand, that the discretion granted the Administrator not to revoke or deny a certificate under certain circumstances where FLSA compliance is assured means that the denial or revocation standards in the proposal are not truly mandatory.

The Department believes that, given the relatively small number of approximately 50 certified knitted outerwear employers in actual operation, the amount of activity in denial or revocation of certificates and in litigation is not inconsistent with normal enforcement efforts. With regard to the criteria themselves, the Department believes that enforcement of the Act will be best achieved by creation of specific standards of revocation and denial. We anticipate that the establishment of mandatory standards for revocation will be a significant deterrent against violations. The ILGWU comment that revocation is less likely than under the prior discretionary standard overlooks the fact that the rule maintains general discretionary authority in the administrator to deny or revoke a certificate if employment of homeworkers under that certificate is likely to result in violation of the FLSA. This provision may be utilized to deny or revoke a certificate in appropriate circumstances not otherwise subject to one of the specific denial or revocation standards.

With regard to the administrator's discretion not to revoke or deny a certificate where the otherwise mandatory criteria have been met, the circumstances in which such discretion can be exercised are very narrowly circumscribed. It is necessary that the employer not know or have reason to know of the violations, despite the exercise of due care, that all back wages and civil money penalties be paid, and that steps have been taken to prevent recurrence. In our judgement, the purposes of the FLSA and the certificate program are not served by denying or revoking certificates in such circumstances. The Department expects, however, that the cases satisfying the criteria necessary for application of the Administrator's discretion will be infrequent.

Finally, the ILGWU commented that the provision requiring denial or revocation of certificates where an employer has discriminated against homeworkers for engaging in protected activity designed to enforce their rights under the FLSA was unnecessary because homeworkers don't file complaints with the Department, because section 15(a)(3) of the FLSA already protects employees from discrimination, and because it is difficult to prove discrimination.

In the Department's view, providing protection to employees who seek to enforce their rights is essential to effective administration of the Act. Although such protection is provided already in section 15(a)(3) of the Act, including it in these regulations underscores its importance, and may also provide an additional deterrent to employers and alleviate some employees' fear of retailiation.

A revision has been made to § 530.205(g) to make it clear that if an employer fails to maintain the names and addresses of employees, this would be a serious recordkeeping violations and grounds for revocation or denial of a certificate.

(9) Civil money penalties. Section 530.301 establishes a system of civil money penalties to be assessed against applicants and certificate holders for any violation of the FLSA related to homework (except child labor) or for any violation of the homeworker regulations or the assurances made thereunder. (Part 579 of this chapter, issued pursuant to section 12 of the FLSA provides a separate system of civil money penalties for child labor violations.) In setting the amount of any penalty assessed under this rule, the Administrator will take into consideration the number of homeworkers affected, the history of prior violations, whether a violation was intentional or knowing, whether a violation was substantial (but not so serious as to warrant revocation of a certificate) or minor in nature, and any mitigating or extenuating circumstances. A schedule is prescribed in the rule for computation of such penalties, up to $500 per affected homeworker. Procedures for assessment and administrative hearings are also included in the rule.

Authority for imposition of civil money penalties may be found in section 11(d) of the Act, enacted in 1949, which authorizes the Secretary to make "such regulations and orders regulating, restricting, or prohibiting industrial homework *as are necessary or appropriate* to prevent the

circumvention or evasion of and to safeguard the minimum wage rate prescribed in the Act" (emphasis added). Even before this provision was added to the Act the Supreme Court upheld, in *Gemsco* v. *Walling*, 324 U.S. 244 (1945), the Wage-Hour Administrator's authority to prohibit, outright, the practice of industrial homework, where the statute authorized the prescription in industry wage orders of "such terms and conditions as the Administrator finds necessary * * * to safeguard the minimum wage rates * * *".

By the same rationale, section 11(d) authorizes the Secretary to impose remedies short of outright prohibition, namely civil money penalties, where this is a reasonable alternative to prohibition, and reasonably necessary or appropriate to safeguard payment of the minimum wage to homeworkers. (See also *Janik Paving & Construction, Inc.* v. *Brock*, 828 F.2d 84 (2nd Cir. 1987) wherein it was held that the Secretary is authorized to debar contractors under the Contract Work Hours and Safety Standards Act, pursuant to statutory authority "to prescribe appropriate standards, regulations, and procedures * * * with respect to compliance with the enforcement of such labor standards, as he deems desirable," following *Steuart & Bro.* v. *Bowles*, 322 U.S. 398 (1944).) As in *Gemsco*, the Secretary's utilization of a specially tailored remedy pursuant to this rule is necessitated by the special enforcement problems posed by industrial homework, where these problems cannot be readily resolved by the use of more routine back wage or injunctive remedies, yet the violations are not deemed to warrant revocation of the certificate.

The Department views the civil money penalty provisions of this rule as an important enforcement tool to encourage employers of homeworkers to pay not less than the minimum wage and overtime pay as required by the Act, and to keep proper records as required by the regulations. This device will be used in those instances when revocation of a certificate seems inappropriate or unduly harsh under the circumstances of the violations.

The civil money penalty system permits the imposition of relatively moderate administrative remedies for violations of recordkeeping requirements and for operating without certificates in situations where substantial back wages are not found to be due homeworkers. Full due process will be afforded to employers through prescribed administrative appeal procedures as discussed below.

A former Wage and Hour official stated that such penalties were tried unsuccessfully in the migrant farm labor area, but that employers just disappeared rather than face enforcement of the penalties.

The Department views migrant farm labor employment conditions, generally involving transient farm labor contractors, as providing no valid comparison with homework employment by certified employers. In the event an employer with a homeworker certificate fails to pay a civil money penalty, this final rule requires revoking the certificate. The Department views civil money penalties as an intermediate remedy for those violations of the FLSA which are not so severe as to require revocation of a certificate. In the enforcement of the FLSA, the Department has had experience with many types of employers who disappear, seek relief under the bankruptcy laws to avoid the payment of back wages, or refuse compliance with the Act.

(10) Administrative procedures. The final rule in Subpart E, §§ 530.401 through 530.414, provides an administrative process for review of a determination to deny or revoke a homework certificate and for review of a decision to assess a civil money penalty. The procedures include a right to a hearing before an Administrative Law Judge and an appeal of the Judge's decision to the Secretary.

Special procedures are included at § 530.411 for an expedited proceeding when a hearing has been requested following a determination to revoke a certificate on an emergency basis. In the case of a request for such a hearing, special time limits are provided for the Administrative Law Judge to hold a hearing and issue a decision, and for the Secretary to issue a final decision.

The final rule at § 530.410 also provides an informal procedure before the Administrator in lieu of a formal hearing before an Administrative Law Judge. This procedure is to be used when an applicant or certificate holder does not contest the factual findings of the Administrator and waives a formal hearing.

The House Committee on Education and Labor argued that it is inconsistent for the Department to create expedited procedures in this proposed and at the same time to be on record as opposed to the time frames for administrative proceedings in the Committee's bill to amend the Davis-Bacon Act, H.R. 2216.

There are significant differences between the expedited administrative procedures in § 530.411 and those contemplated by the legislation. The Department anticipates that the number of administrative hearings and appeals resulting from the Committee's Davis-Bacon bill would be far greater than the number of cases subject to the administrative procedures of this rule. Expedited procedures for routine Davis-Bacon cases would place a great burden on the resources of the Department, at the expense of other cases, whereas the expedited procedures of this rule are not expected to be invoked frequently. Unlike the Davis-Bacon bill, the expedited procedures in these regulations are not invoked for routine cases, but only in emergencies where the Administrator determines that immediate revocation is necessary to safeguard the payment of minimum wages to homeworkers.

(11) Bonding or security payments. Section 530.104 authorizes the Administrator to require employers to furnish a bond or cash security payment as a condition for issuance or renewal of a certificate. Such bond will be compulsory prior to issuance or renewal of a certificate in the case of any employer whose application for a certificate has previously been denied, or whose certificate has previously been revoked. Such bond or cash payment will be in an amount up to $2500 for each homeworker to be employed under a certificate, and will be subject to payment or forfeiture in the event the employer fails to pay any minimum wages or overtime pay due homeworkers. The Administrator will disburse any sums thus paid or forfeited to affected homeworkers in accordance with the procedures set forth in section 16(c) of the FLSA.

The Department considers a bonding or security requirement to be a significant enforcement tool which will not only provide a strong incentive for employers to pay homeworkers the minimum wage and overtime pay required by the FLSA, but also assure that in the event of nonpayment, funds will be available to satisfy the employer's back wage obligations.

In order to avoid unnecessary burdens on law-abiding employers, bonding will not be imposed as a routine requirement, but only in instances where it is questionable, based on Wage-Hour experience with the employers from past or current investigations, whether they will comply with their legal obligations, or whether money will be available to compensate homeworkers if violations occur.

Bonding will be imposed, for example, in cases where an employer in the past has needed an installment plan to pay the back wages due. In such cases, however, the Administrator may relieve the employer from the bonding obligation and refund any amounts held as security where it is subsequently determined that the employer is in compliance with the law and the Administrator is satisfied that the employer will be financially able to remedy any back wage violations which may occur.

The ILGWU commented that these requirements are not necessary because the Department can deny or revoke a certificate for an employer's failure to comply with the FLSA. The ILGWU also believes that bonding of employers is unlikely to be very useful or occur very often because of the difficulty in making the necessary findings concerning the ability of the employer to meet its obligations under the Act.

Under the regulatory scheme, not all first-time wage violations are necessarily so serious as to require revocation of a certificate, but the circumstances of those violations or the employer's ability to pay may lead to a conclusion that a bond is necessary for protection of the employees' wages. Furthermore, where a certificate has been previously denied or revoked, a bond will generally be a prerequisite to obtaining a certificate and additional findings would not be necessary.

II. Homework in the women's apparel industry.

Many comments were received on the August 1986 proposal opposing the lifting of the ban on homework in the women's apparel industry. The Department indicated in the March 1988 notice that it is still carefully reviewing all of the comments submitted on this issue. Accordingly, the August 1986 proposal to lift the ban in the women's apparel industry was withdrawn. Should the Department decide to take further action with respect to this industry, the March 1988 notice stated that separate rulemaking would be undertaken. Thus, the final rule has no effect on the current restrictions on the employment of homeworkers in the women's apparel industry.

III Freedom of choice.

The Department received a great many comments from individuals who expressed a strong belief that the freedom to work at home is a basic right and explained their reasons for wanting to work at home: A homworker is free from direct supervision; work schedules can be adjusted to fit individual circumstances; and a homeworker can work at his or her own pace and time, resulting in a more satisfied person and a product of better quality. Several commenters mentioned that homework provided freedom from the noise and crowded conditions of a factory. Others claimed that the homework ban was unconstitutional in that it limited their "pursuit of happiness." A number of commenters acknowledged that there are benefits to working outside the home, but that the independence and flexibility of working at home outweigh any loss of these benefits.

In the Department's view, it is desirable for individuals to have the greatest freedom possible in selecting employment. Thus, the Department feels that it is appropriate to provide employers and employees the opportunity to arrange for individuals to work out of their homes, provided that the Department is able to effectively enforce the provisions of the FLSA and that the workers are paid in compliance with the Act.

IV. Impact on rural areas

Many commenters submitted views on the benefits of homework in rural areas. Some of the reasons cited by these commenters for lifting the ban were:

1. The agricultural economy is depressed and jobs are scarce;
2. Mass transportation is nonexistent;
3. Travel, especially in winter over rough roads, is difficult;
4. The distance from home to workplace is often considerable, thus making employment outside the home difficult and expensive;
5. Day care facilities are few and far between and are expensive where available;
6. Farm wives need to be available for farming activities during the busy parts of the year; and
7. The need for flexibility to perform farm chores at certain times is required every day.

Several commenters noted that income derived from homework made the diffence between holding on to a family farm or having it go under.

The Department agrees that homework may be the most viable type of employment for certain individuals, and that this is a valid reason for removing the restrictions on homework provided such individuals will be paid in compliance with the FLSA.

V. Impact on local and national economies

Many commenters argued that the ban has denied homeworkers opportunities to earn a living and thereby caused substantial personal hardships. They also stated that the prior rule impacted adversely on unemployment and productivity in the restricted industries at a time when imports are eroding traditional manufacturing bases. Some noted that the 1986 White House Conference on Small Business strongly recommended the repeal of the regulations restricting homework. Lifting the restrictions, many argued, would encourage the expansion of job opportunities, permit businesses to find ways to reduce costs, provide additional tax revenues for Federal, State and local governments, and place the United States in a more competitive position in the global economy.

While the Department agrees with the thrust of these comments, no reliable data are available to confirm any conclusions about the impact of the homework restrictions on employment opportunities or their economic effect on businesses in the restricted industries. Consequently, the Department's decisions in this rulemaking were not based on any consideratiopn of the net impact of the rule on employment opportunities.

Conversely, many clothing and textile manufacturers, associations of manufacturers, the ILGWU, the Amalgamated Clothing and Textile Workers Union, and others argued that traditional manufacturers cannot compete with employers who use homeworkers. A number argued that factories cannot compete with manufacturers who use homemakers because the costs associated with operating a factory are much greater, that lifting the homework restrictions would cause factories to close, and that responsible employers would have to move jobs to employees' homes in order to compete. They also argued that the Department had not considered the impact of the proposal on employees in factories. A number of associations of manufacturers stated that these industries are dying out as a result of foreign competition. One manufacturers' association pointed to the consequences of unfair foreign competition on these industries and argued that the proposal would eliminate protections that now exist against unfair competition at home. Some argued that the proposal would not produce any growth of employment opportunities, and that any gain in homeworker employment would be offset by losses in factory employment.

Several State Departments of Labor argued that the Department had not considered the impact on manufacturers in States that ban homework who will be forced to compete with homeworker employers in other States and stated

that the proposal would undermine their own State enforcement efforts.

The Department recognizes that factory manufacturers may pay wages and provide benefits to their employers in excess of those required by the FLSA. However, the FLSA provides the authority to restrict homework only to the extent necessary to safeguard the minimum wage. Many of the concerns about "unfair competition" with homeworker employers relate to higher operating costs for employers of factory workers. Provided the homeworkers are paid at least minimum wage and required overtime pay, the objections raised in the comments concerning "unfair competition" are not FLSA matters and, therefore, are not pertinent to these regulations. Finally, all other industries, other than the few restricted industries, have always been permitted to use homeworkers and such allegations have not been heard from these other industries.

In the Department's view, the ban on homework has been only partially effective and, thus, factory manufacturers have already been competing to some extent with employers of homeworkers in the restricted industries just as they have been competing in the non-restricted industries. Furthermore, homeworker employers in the restricted industries have had little incentive to comply with the FLSA minimum wage and overtime requirements, since their operations have been illegal under the Act. Under the ban it has been extremely difficult for the Department to locate and identify homeworkers or to obtain their cooperation in investigations. This problem should be ameliorated under a certification system. Through the Department's efforts to ensure that homeworkers legally employed by certified employers are paid legal wages and vigorous enforcement of the FLSA with respect to employers operating without certificates, the competitive position of factory employers should not be substantially impacted and may improve under the certification process.

This regulation will have no effect on any existing State restrictions on homework. Thus, under § 530.201, homework in these industries will continue to be prohibited under this rule in those States where, and to the extent that, State officials advise the Department that homework is restricted by State laws and rules. The fact that such State restrictions may work to the disadvantage of local factory manufacturers in competition with those in States who might utilize homeworkers in compliance with the FLSA is not an FLSA issue.

VI. Need for homework restrictions

Many commenters in favor of the proposed argued that while the regulations restricting homework might have been necessary when they were promulgated in the 1940's, the restrictions are obsolete and contrary to the needs of today's workers. As discussed above, some of these commenters pointed out inconsistencies in the prior rule, in that homework was prohibited in some industries but not others.

The Department appreciates the difficulty the public has in understanding why restrictions on the use of homeworkers should apply in certain industries, but not others. After the enactment of the FLSA, homework in certain industries was believed by the Department to be a threat to maintaining labor standards. A series of public hearings extending from 1941 through 1943 was held for seven industries in which homework was most prevalent and in which FLSA violations were believed to be a serious problem. As a result of these hearings, restrictions on the employment of homeworkers in the seven industries (including knitted outerwear) were established by regulation.

Today, with the growth of homework in other industries (such as telemarketing and word processing), the application of such restrictions to only a few specific industries is easily perceived as an anomaly which is hard to understand without the historical background and the appreciation that the prior rules remained essentially unchanged for over forty years.

Commenters opposed to the proposal pointed to the impediments to achieving FLSA compliance with respect to homeworker in these industries that were identified by the Administrator in the 1940's, and argued that nothing had changed over the years to diminish these impediments. Many commenters argued that certification of homeworkers employers would not work because only a handful of employers (those that are law-abiding) would seek to obtain certificates.

In the Department's view, the latter argument is precisely the point in permitting employers to obtain certificates to employ homeworkers. It is anticipated that, as a general matter, employers who come forward and identify themselves and agree to open their records to inspection, do, in fact, intend to comply with the law. It is to these and only these employers that this rule has any application.

While the Wage-Hour Administrator in 1942 concluded that a ban on homework was needed to protect homeworkers, it is evident that the 45-year ban did not eliminate homework. During those years the ban on homework fostered an underground, unchecked homework industry in which enforcement of minimum wage and overtime pay requirements has been very difficult. Employers of such homeworkers had little reason to comply with the FLSA (or meet any other Federal or State standards) since their operations were illegal under the FLSA in any event. In the Department's view, the certification system and enforcement mechanisms incorporated in the final rule are preferable and reasonable alternatives to a total ban.

VII. Homework permits individuals to combine work and family obligations

Among commenters in favor of the proposal, the flexibility provided by homework to combine work and family obligations was second only to the "freedom" issue as a reason to adopt the proposal. The consensus of these commenters was that working at home would enable parents to earn money and care for their children without incurring expenses for child care, transportation, or clothing suitable for work outside the home; would provide income opportunities for senior citizens and handicapped persons; would enable people to earn money and care for sick or elderly family members; and would help remove single parents from welfare rolls and place them in the work force. One commenter questioned the fairness of the government's prohibiting people from working at home, supporting themselves, and paying taxes, and at the same time paying out welfare funds for such people to stay home and be supported by taxpayers. Several people commented that homeworkers can earn less per hour than they would for the same work outside the home and still come out ahead because they have no child care, transportation, or clothing costs.

The Department would point out that elderly and handicapped persons who are unable to adjust to factory work and persons required to remain at home to care for invalids were permitted under the prior rule to work at home with individual certificates. In other respects the Department shares the concerns of these commenters, provided that the Department is able to assure compliance with the Act.

VIII. Homework in the jewelry industry

Many comments were received on the August 21, 1986, proposal opposing the lifting of the ban on jewelry homework based on safety and health issues. Specifically, the SEIU and other commenters expressed the opinion that permitting homework in the jewelry industry could impose a grave danger to the health and safety of workers, their families and the community. They alleged that a number of the processes involved in jewelry manufacturing expose workers to toxic fumes and acids, many of which are known cancer-causing agents or are harmful to the reproductive processes. It was also argued that significant fire hazards and the potential for explosions are present due to the use of flammable solvents, propane tanks and acetylene torches.

Comments in favor of lifting the ban on jewelry homework argued that its retention would result in loss of jobs, thereby exacerbating already depressed employment situations in certain parts of the country.

The Department carefully considered the comments submitted on this issue. In light of the potential for very serious safety and health hazards for homeworkers in the jewelry industry, and the Secretary's broad and multi-faceted responsibility for protecting and promoting the welfare of working people generally (29 U.S.C. 551), and in view of the potential adverse impact on the public at large, the March 1988 notice withdrew the Department's prior proposal to lift the ban on this industry except with regard to operations determined not to involve safety and health standards, and the notice indicated that the restrictions on other homework would be retained. Since there was no evidence in the rulemaking record of safety and health hazards in jewelry assembly operations limited to the stringing of beads and other jewelry, carding and packaging operations, and since a number of comments submitted on the August 1986 proposal advocated that homework should be permitted in such operations, the Department proposed in March 1988 that the ban be lifted with respect to such operations.

One jewelry manufacturer commented in favor of the proposed rule, stating that its operations are in accordance with its provisions. In addition, the Small Business Administration alleged that the rule is so restrictive that virtually all jewelry manufacturing is excluded, and stated that the proposal does not contain sufficient information to support its conclusion. However, neither the SBA nor any other commenter provided any information or suggestions in support of a broader rule.

The SEIU submitted subsequent comments opposed to the limited certification program in the jewelry industry. Among the issues raised, they stated that the terms "carding and packaging" as used in the industry include operations which could be hazardous in a home environment such as the use of industrial glues and epoxies for mounting backs or stems on earings and the use of heating elements to seal plastic wrapping. To avoid any such effect, § 530.101(a) clarifies that "carding and packaging" operations may include the use of common household glues available to the general public but do not include potentially hazardous operations such as the use of industrial glues, epoxies or heating elements. Also, § 530.103 has been amended to require employers in this industry to provide written assurances that their homeworkers will be exclusively engaged in the permitted operations.

IX. Enforcement experience in the knitted outerwear industry

Commenters in favor of the 1986 and 1988 proposals argued that the enforcement experience in knitted outerwear under the certification program had proven to be an effective means of ensuring employers' compliance with the FLSA. Many of these commenters expressed the view that the lifting of the ban together with the certification requirement would eliminate the fear of job loss for homeworkers who would, therefore, feel free to file complaints of wage underpayments with the Department.

The Department agrees that FLSA enforcement among employers of homeworkers in the knitted outerwear industry has been more effective under the certification program than under the prior ban. The certification program has identified homeworker employers in the industry, permitted employers who wished to comply with the FLSA and employ knitted outerwear homeworkers a legal avenue to do so, and provided an incentive for employees and employers to furnish the Department with information about other companies in the industry operating without certificates.

The Department has identified far more knitted outerwear employers of homeworkers than was possible under the prior restrictions. The certification program established a channel of enforcement and public information to a segment of the knitted outerwear industry that was largely out of reach under the prior restrictions. Without this program, it is likely that many of the knitted outerwear firms investigated would not have been contacted by the Department.

By contrast, many of the commenters opposed to the 1986 and 1988 proposals presented a sharply critical view of the Department's investigations of knitted outerwear manufacturers under the certification program. The thrust of these comments was that these investigations demonstrated that the Department did not and could not properly enforce the FLSA.

The ILGWU submitted a lengthy narrative discussion on each of the two proposals. Accompanying each of these submissions was a separate volume of attachments (photos, affidavits, etc.). In addition a private consulting firm's analysis of Wage-Hour time studies was submitted. Also submitted were 57 appendix volumes consisting of reproductions of Wage-Hour files and documents provided the ILGWU in response to requests for disclosure under the Freedom of Information Act.

The Department recognizes the extraordinary levels of effort and resources the ILGWU expended in analyzing the disclosable portions of the knitted outerwear files and preparing comments on these investigations. The major issues raised in the ILGWU comments on the knitted outerwear enforcement program are discussed below.

The ILGWU argued that the Department's identification of approximately 665 homeworkers in the knitted outerwear industry between 1984 and 1986 does not establish its ability to identify and locate the remainder of the universe of homeworkers in that industry. The union concluded that this inability to locate homeworkers would be exacerbated if the certification system were extended to the remaining restricted industries due to an anticipated growth of illegal homework in those industries. Few employers of homeworkers in these industries, they submit, would obtain certificates, because as a regular practice such employers pay their homeworkers subminimum wages and would not expose this practice to the Department.

In fact, only those employers who come forward and identify themselves through the certification procedure are affected by this rule. Those employers who fail to obtain certificates will remain subject to the restrictions on the use of homeworkers applicable under the prior rule. The impact of the new regulations is neutral with respect to employers of homeworkers who operate

outside the certification system. Lifting the restrictions on those employers who do obtain certificates should not lead to an increase in illegal homework. The Department will continue its efforts to locate and investigate illegal homework and obtain compliance with the law.

The ILGWU argued that many of the knitted outerwear investigation files were deficient in that the compliance officers did not follow three Wage-Hour Field Operations Handbook (FOH) "mandates" for homework investigations, namely, records review, time studies, and interviews. In comments submitted on the 1986 proposal, the ILGWU also argued that based on a review of investigatory records, the Department disregarded or overlooked evidence of monetary violations involving seven certified employers, and understated violations involving five others.

The Department carefully reviewed its enforcement experience in knitted outerwear based on these and other comments. As a result of this review, the Department conducted training in the Summer of 1987 of its Wage-Hour compliance officers concerning enforcement techniques to use in such investigations. A review of investigations conducted since the training was completed disclosed some errors in knitted outerwear files. However, the Department does not agree with the ILGWU assessment of the overall success of the knitted outerwear investigation program under the certification process, in comparison with the success of the prior total ban on homework in that industry. It has been the Department's experience that compliance has improved as certified employers are further educated about the requirements of the Act.

The ILGWU claims are based primarily on assumptions concerning the lack of investigation file documentation in the areas of wage and handbook transcription, interviews, time spent in setting up and putting away equipment and materials, and employee expenses. While compliance officers are expected to follow FOH guidance in the conduct of homework investigations, these instructions are not intended to be "mandates" in all cases. It is generally understood throughout the Wage and Hour Division and by the public that considerable judgment and discretion is to be used by compliance officers in determining the amount of factfinding to devote to a case and selecting the most appropriate investigation techniques to apply. Many of the decisions made by compliance officers must be made on the spot in view of the particular circumstances of a case.

Furthermore, an investigation file is merely a record of the compliance officer's findings and conclusions about an investigation and, as explained below, does not present a comprehensive picture of all the records which were reviewed or all the questions which were asked in employee interviews. Thus, while compliance officers are expected to review records of hours of work, they are not, contrary to the ILGWU assertion, expected to include *transcribed* records in the investigation file unless there is some reason to do so, e.g., to illustrate or document minimum wage and overtime pay violations. Similarly, while oral interviews of employees are normally taken, field staff are not in any way expected to take a verbatim transcription of everything discussed with an employee.

To an outside observer it may appear that portions of the investigation process were omitted in error while it is likely that a judgment was made that further factfinding was not necessary in order to make determination concerning the employer's status of compliance. For example, where it is clear that employees earn well in excess of the minimum wage, details concerning the time spent in setting up are not necessary. For these reasons, the Department believes the ILGWU conclusions about the "mandates" relating to knitted outerwear investigations are overstated.

Several commenters, including a consultant retained by the ILGWU, argued that time studies cannot be used by Wage-Hour as a tool to determine FLSA compliance in homeworker investigations. They pointed out that it is impossible to study every style produced or to insure that the styles time-studied are, in fact, the more difficult patterns. They also stated that time studies only result in approximations of the average time required by employees to produce a given style and do not take into account vast differences in the skill levels of employees. They also argued that the time studies conducted in the knitted outerwear investigations were not used effectively.

In the Department's view, compliance officer time studies (which are now more accurately termed "work observations") can serve as a tool in homeworker investigations in confirming or negating information obtained from employer records, homeworker handbooks, homeworker interviews, and other sources. However, compliance determinations cannot be and are not based solely on work observations in any type of investigation, including homework investigations.

Furthermore, upon review of its experience in knitted outerwear investigations, the Department has concluded it is not necessary or appropriate to conduct work observations in all homeworker investigations or to observe the work of each homeworker. For example, where records and interviews otherwise clearly indicate compliance, and where there is no reason to suspect falsification, work observations serve little, if any, purpose. Where, for example, an employee works part-time and clearly earns in excess of the minimum wage, there is no need to ascertain whether a certain item takes forty or fifty minutes to make or whether the employee is earning $8.00 or $8.25 an hour. All that is necessary is to determine that the employee is paid at least the minimum wage for each hour of work. This is a matter of judgment and discretion by the compliance officers and their supervisors, based on the facts and circumstances of a given case.

X. Enforcement Resources

Many commenters on the August 1986 proposal argued that the Department's resources (approximately 900 compliance officers) were inadequate to enforce the FLSA in the restricted industries. Most of these commenters pointed to the relatively small size of the knitted outerwear industry in comparison with the women's apparel industry. Many argued that the annual inspection program in knitted outerwear could not be carried over to the remaining industries without draining resources away from non-homework investigations of all other industries, as well as homework investigations of unscrupulous employers who do not obtain certificates. A number of commenters pointed to a GAO report finding of a 20 percent reduction in compliance officer staff years between 1980 and 1984 and the addition of 7.5 million covered State and local government workers as a result of the decision in *Garcia* v. *San Antonio Metropolitan Transit Authority et al.* (*Garcia*), 469 U.S. 528 (1985). In response to the March 1988 proposal some argued that the 20 additional compliance officer staff years included in the 1989 Budget for homework enforcement is inadequate.

Since it is presently illegal to employ homeworkers in the restricted industries, there are no reliable

estimates as to the number of such homeworkers. Based on the 1980 census, the Bureau of the Census estimates that there are 8,711 homeworkers in the six industries (including women's apparel). The Bureau of Labor Statistics places the figure at approximately 122,000. Both studies have certain limitations in their effectiveness in identifying homeworkers in the precise industries restricted by the prior rule. However, assuming that, in fact, 122,000 homeworkers are employed in the six industries, the size of the work force is a very small fraction of the total number of workers subject to the FLSA minimum wage, which is estimated at 73 million. Moreover, while precise data are not available, it is likely that relatively few of these homeworkers are in the industries affected by this rule and in States which permit such homework.

Furthermore, contrary to these comments, the number of Wage-Hour compliance officers has not dropped sharply since 1980:

Date	On board compliance officers
Sept. 30, 1980	1,059
Sept. 30, 1981	953
Sept. 30, 1982	914
Sept. 30, 1983	928
Sept. 30, 1984	916
Sept. 30, 1985	950
Sept. 30, 1986	908
Sept. 30, 1987	951
Sept. 30, 1988	[1] 985
Sept. 30, 1989	[1] 1,028

[1] Estimated.

The workload impact of the *Garcia* decision has not strained available compliance officer staff resources. For example, in FY 1987 the Wage and Hour Division received a total of only 1,300 complaints from State and local government workers while 62,000 were received from workers in the private sector.

The NCFLL asserts that the Wage and Hour Division program operational plan inhibits the ability of compliance officers to conduct homeworker investigations, contending that homeworker investigations require significantly more time than other Wage and Hour investigations. The Department has recognized that homeworker investigations require more compliance officer investigation time. The request for additional compliance officer resources was based on the Department's estimate that the typical homeworker investigation requires 35 hours to complete, compared to 20–22 hours as an average for all other FLSA investigations. In addition, it is important to note that program operational plans establish production goals for field offices, not individual compliance officers. The plan is based on average investigation time and recognizes that some investigations require more time than others.

It is the Department's view that the additional compliance officer resources requested in the 1989 Budget will provide sufficient resources to conduct an effective enforcement program in the restricted industries. Within current resources, the Department has been able to conduct approximately 375 homeworker investigations annually. The additional compliance officers will permit an increase in the number of investigations to 1,150, more than triple the current level. While a higher percentage of covered homeworker employers are investigated than are employers in many other enforcement programs, the Department believes that the devotion of a higher level of resources is warranted.

Whether the Department has sufficient resources to investigate homeworker employers certified under this rule will depend, in part, on the number of employers who request certificates and the level of compliance with the FLSA such employers achieve and maintain. Also, while the Department does not anticipate any increase in illegal homework, it recognizes that additional leads may also require the use of additional resources to vigorously enforce the FLSA with respect to uncertified employers. The resources needed may change over time and will be examined regularly (as they are presently examined for all Wage and Hour Division activities). As necessary, the Department will include additional resources in its budget requests. The fact that the Department cannot identify the precise resource impact of permitting a relatively small number of employees to work at home is not a valid reason to ban such work.

XI. Rate of violations

Many commenters argued that adoption of the proposal would result in widespread FLSA violations. Some stated that lifting the ban would be an abdication of the Department's statutory responsibility to workers in these industries because such action would foster FLSA violations. Others argued that children would be used to help increase the family income by doing some of the work, to the detriment of their studies.

The Department believes that the FLSA itself provides strong safeguards to assure compliance by employers generally, including homeworker employers. Specifically, the Secretary has authority to assess civil money penalties for child labor violations, to file lawsuits to compel compliance through injunctions and obtain the payment of back wages, and to pursue criminal penalties through the U.S. Justice Department.

The Department also believes that the certification program will foster FLSA compliance to a greater extent than occurred under the homework ban among those employers who will come forward to obtain certificates. Most importantly, such employers will have a new incentive to comply with the FLSA, namely, the opportunity to operate legally. Under the prior rule such employers had little incentive to comply since their operations were illegal irrespective of any wages paid or compliance with child labor rules. The Department also agrees with commenters (both in favor of and opposed to the proposals) that generally only those employers who intend to pay their homeworkers properly will come forward to obtain certificates. As previously pointed out, only those who do so are affected by this rule. Employers who do not obtain certificates remain subject to the ban on homework.

Moreover, the final rule incorporates significant enforcement mechanisms to address commenters' concerns about the difficulty of enforcing the FLSA among employers of homeworkers. The Department believes, since the ban has been ineffective in eliminating homework, on balance, the more effective means to achieve FLSA compliance for homeworkers in these industries is to implement the strong new enforcement mechanisms in this rule for employers who seek to comply with the FLSA and come forward to obtain certificates, rather than to continue the ban on such employment. The prior rule did not eliminate homework, foreclosed opportunities to work at home legally, fostered an underground homework industry comprised of employers with little incentive to comply with FLSA standards, and reduced the likelihood that the Department would identify homeworkers and monitor their activities.

XII. Inadequate Recordkeeping

Many commenters argued that no methods exist to accurately measure hours worked by homeworkers, that the sporadic and unsupervised nature of homework precludes any accurate or complete recordkeeping, and that it is

too easy for employers to falsify hours records on homeworkers. Some argued that homeworkers underestimate their actual hours of work (and thus overstate their earnings per hour) in order to avoid "make-up" pay needed to provided them with the minimum wage and thus eliminate the risk of losing their jobs. The ILGWU quoted the Department's 1959 report on homework: "It is to the advantage of the employer to maintain inadequate records of their employees' wages and hours. Any attempt to reconstruct hours or wages in the absence of required records in many cases is an exercise in futility."

The Department agrees that recordkeeping has been a common problem area among employers of homeworkers. However, compliance officers over the years have conducted a variety of non-homeworker investigations where records are inaccurate, incomplete, or nonexistent, where employees work at multiple locations, and where wages are paid based on piece rates. In the construction industry, for example, it is common to find so-called "independent contractors" paid so much per square foot of wall-board or so much per square foot of roofing. Similar recordkeeping problems are common with respect to taxicab drivers, home service and repair workers, resident managers, maintenance engineers, irrigation installation and repair workers, insurance adjusters, and other employees subject to unscheduled "on-call" work outside their normal workday.

Furthermore, many Wage and Hour investigations involve employees whose employers incorrectly assume they are exempt pursuant to FLSA section 13(a)(1) and 29 CFR 541 as "managers", administrative personnel, or other salaried white collar workers. Frequently, such employees work outside normal schedules, including working at home, and there are no records of hours worked. Thus, the problems of recordkeeping and the need to reconstruct hours are not, by any means, unique to homeworker cases.

Experience in the initial round of investigations under the knitted outerwear certification program showed a high rate of recordkeeping violations, as discussed in the ILGWU comments. The high percentage of employers with recordkeeping violations closely parallels the Department's historic experience with homeworker employers as cited by a number of commenters.

However, the effectiveness of the homeworker certification program in fostering improved recordkeeping should not be measured on the basis of the initial investigations of certified employers as the ILGWU contended. The Department's initial investigations of knitted outerwear employers immediately following certification covered time periods largely or entirely prior to the employers' certifications. (Investigations generally covered a two-year period from the last payroll completed before the opening of the investigation.)

A better measurement of the effectiveness of the certification program in improving recordkeeping by employers using homeworkers is to be found in the status of recordkeeping compliance in investigations subsequent to the initial one. In fact, both the number and severity of recordkeeping violations found in the reinvestigations of certified employers have been reduced from those found in the initial investigations. Most certified employers substantially improved their recordkeeping compliance (or came into full compliance) once the relatively complex recordkeeping rules peculiar to homeworker employers were adequately explained. Under this rule, certified employers of homeworkers have an incentive to keep proper records that uncertified employers do not have, namely, the desire to retain their certification. Thus, the Department believes that homeworkers are better protected under the certification program than under the prior ban.

Unquestionably, determining hours worked is an important aspect of any investigation where accurate time records have not been kept. Though burdensome, it is not an impossible task. Wage and Hour compliance officers have been trained to make determinations of hours worked by employees in their normal day-to-day investigations through the use of employee interviews and other techniques. Moreover, since the FLSA was enacted, the courts have placed great weight on the Administrator's estimates of the hours worked in calculating back wages. Inaccurate or missing records have provided little defense to employers who objected to the size of such estimates. (See, for example, *Anderson* v. *Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946) and *Donovan* v. *Grantham*, 690 F.2d 453 (5th Cir. 1982).) The FLSA provides penalties, including injunctive relief, for continued recordkeeping violations. The final rule includes civil money penalties and certificate revocation as tools for the Department to improve compliance in this area by certified homeworker employers.

The Department believes the regulatory changes put into effect by this rule will improve the accuracy of recordkeeping by certified homeworker employers, as well as homeworker employers in all the unrestricted industries. The homeworker handbook has been simplified to facilitate recording of daily and weekly hours worked. The revised handbook includes instructions for filling it out and a brief explanation of what constitutes "hours worked" under the FLSA. The handbook will be available in English and six foreign languages. Finally, the recordkeeping rules (29 CFR 516) have been revised to clarify the types of information to be kept and to require employers to insure that homeworkers make the required entries into the handbooks.

XIII. Language Barriers and the Widespread Use of Immigrants

A great many commenters pointed to the widespread employment of immigrants in the restricted industries as a basis for maintaining the ban. Some argued that because of language differences and other social barriers, newly-arrived immigrants are not fully aware of their rights, and are especially vulnerable to manipulation and abuse. Others stated that language barriers effectively would eliminate the Department's ability to interview and do time studies and pointed out that the prior homeworker handbook, as discussed above, was not generally available in languages other than English. Many commenters argued that illegal aliens are often employed as homeworkers and that such workers will not complain to the Department out of fear of deportation.

The Department has to deal with language barriers as part of its overall enforcement activities under all the various laws it administers, and in all types of industries. Even if this rule were not implemented, the challenge of language barriers would remain in investigations of employers of homeworkers both in these industries and in the unrestricted industries, and of factory employers. The ban imposed under the prior rule offered no assistance in addressing the problem of language barriers among homeworkers in any industry (restricted or not restricted). By contrast, this rule requires that certified employers provide the Department with information about the languages spoken by their employees. Advance steps can be taken, therefore, to insure that compliance officer staff who have the necessary language skills are assigned to conduct these investigations. The Wage and Hour Division has extensive bilingual

capabilities, with approximately one-fourth of the current field staff having some proficiency in one or more languages other than English. However, when a compliance officer does not possess the language skills required in a particular investigation, a variety of other sources is used, including Federal, State, and local governments, and service organizations. Furthermore, as indicated above, arrangements are being made to print and distribute the new homework handbooks in Spanish, Chinese, Korean, Vietnamese, Cambodian, and Laotian. On balance, the Department believes the certification program in this rule provides more tools to address language barriers with respect to homeworkers of certified employers than did the ban under the prior rule.

There are a great number of industries in which illegal aliens have been employed (e.g., factories, restaurants, agriculture, construction, maintenance and service industries) and the same challenges apply to investigations in these industries.

Furthermore, the Immigration Reform and Control Act (IRCA) of 1986 addresses these problems by providing civil money penalties for employers of illegal aliens and criminal penalties under certain circumstances. (The Wage and Hour Division is responsible for making inspections of certain employer records under IRCA and providing information to the Immigration and Naturalization Service.) It seems apparent that unscrupulous employers who employ illegal aliens as homeworkers at substandard wages will not apply for certification and thus will not be affected by this rule. Such employers will continue to be subject to the ban on homework as under the prior rule. On the other hand, employers who apply for certificates, the only employers affected by this rule, are likely to avoid hiring illegal aliens because of the possible exposure of such workers to a Federal Government agency which has inspection functions under IRCA within its assigned area of responsibility. Therefore, in the Department's view, this rule is more effective, on balance, than the prior ban in addressing the issue of illegal alien employment and exploitation.

Model Garment Programs

Home sewing retailers (fabric stores) have for some time conducted model garment programs, which have been found to be in violation of the FLSA homework restrictions.

Typical model garment programs involve employees of retail fabric stores making garments in their homes for display in the stores.

While there are many variations, usually the employee is given free patterns, notions and materials, and is allowed to keep the garment after the display period, which usually lasts three to six weeks. Such programs are voluntary, and the employee typically has wide discretion in selecting patterns, fabrics and notions.

Such display garment programs are considered beneficial by employers and employees. The employees find the program beneficial because many of them are enthusiastic home sewers. The display garment programs are of advantage to consumers because they can see finished products. The employers are pleased since they can display model garments—which are constructed with personal care—to their customers.

The Department believes that a special provision is appropriate for model garment programs and, therefore, in the March 1988 notice proposed to adopt a policy whereby the Department would not take any action in situations where certain criteria are met. The Department received no comments specifically opposed to the adoption of a special policy for model garment programs. However, a number of comments argued that the policy should be incorporated into the text of the regulation, and that the employer should not be required to (1) provide all materials at no cost, (2) pay the employee for the time spent making the garment, and, at the same time, (3) permit the employee to keep the garment after the display period.

The Department believes it is generally not appropriate to incorporate special enforcement policies in the text of regulations. However, the policy regarding model garment programs will be included in the Wage and Hour Division's procedural instructions to field enforcement staff, and information regarding this policy will be available to representatives of the industry and the general public. In addition, the Department agrees that employers in such programs should be permitted to charge the employees for the employer's cost of materials (e.g., patterns, fabrics, notions) used in producing the garments, since this policy requires that the employee retain the model garment.

It must be emphasized that time spent by employees in sewing model garments is hours worked under the FLSA and that such hours must be combined with hours worked at the establishment in recording the total hours in the workweek and calculating the payment of the minimum wage and overtime pay. The enforcement policy applies only where:

(1) The employees' work is voluntary;

(2) The materials (e.g., patterns, fabrics, and notions) are provided to the employees free or at no more than their cost to the employer;

(3) The employees retain ownership of the model garments after the display period;

(4) An accurate record in homeworker handbooks is maintained of all hours worked in the home-sewing activities; and

(5) The employees are paid for all hours worked, both in the stores and in the home-sewing activities, in accordance with the provisions of the FLSA.

Discussion of Historical Impediments to Enforcement

Many commenters addressed the historical impediments to FLSA enforcement identified by the appeals court in *ILGWU* v. *Donovan*, 722 F.2d 795 (DC Cir. 1983). The prior ban on homework in the restricted industries was adopted in the 1940s largely due to these impediments. However, as discussed above, the ban has not eliminated such homework. In developing the final rule, the Department carefully weighed its experience under the certification program and under the prior ban to determine which of these approaches better addresses the impediments to FLSA enforcement among homeworkers in these industries.

1. Difficulty of locating and identifying homeworkers

The Department believes those employers who apply for certification are motivated to comply with the Act's requirements and will maintain records of the names and addresses of their homeworkers. Furthermore, such employers will be required under this rule to provide the names and addresses of their homeworkers to the Department at the time of the initial certification and at each biannual certification. (Falsification of this information is grounds for denial or revocation of a certificate.) The final rule also provides an incentive for certified employers to furnish the Department information regarding uncertified competitor employers.

By contrast, the ban on homework imposed under the prior rule provided little incentive for homework employers and employees to contact the Department and identify themselves or others in the restricted industries.

2. Inadequate or nonexistent recordkeeping by employers and employees

Experience in the knitted outerwear industry under the certification program has shown that most certified employers substantially improve their recordkeeping compliance after certification. By contrast with employers who operate illegally in the restricted industries, certified employers of homeworkers will have strong incentives to keep proper records, namely, the desire to retain their certification and avoid civil money penalties. In addition, the revised homeworker handbook, as discussed above, will facilitate the recording of the hours of work by improving the format and instructions for completing the handbook. Employers will be required to provide written assurance that they will instruct their homeworkers to maintain accurate records in the handbooks and will also be required to sign a statement in each handbook indicating that to the best of their knowledge the entries made are accurate. Thus, the Department believes that the certification program is a reasonable alternative to a total ban with respect to improving compliance with the FLSA recordkeeping rules.

3. Strain on Departmental resources required by excessive investigative time in homework cases

As discussed above, the Department believes that in view of the size of the affected industries, and the exclusion of the employers in States where homework is prohibited, the scope of the final rule adopted herewith is small.

Furthermore, the phasing in of the certification program in the industries affected will help to spread the burden of performing prompt investigations after initial certificates are issued.

Since 1980, despite budgetary constraints, the Department has maintained an increased enforcement effort directed at FLSA compliance among both legal and illegal employers of homeworkers. This effort has resulted in far more annual investigations of such employers. With its eight-year experience under this special effort, the Department believes, the certification program under the final rule with its new enforcement mechanisms will provide a better opportunity to achieve FLSA compliance with available resources than would any of the other alternatives considered. In particular, the prior ban provided no mechanisms for locating homeworker employers in these industries and little incentive for such employers (or their homeworkers) to cooperate in investigations. The FY 1989 Budget includes an additional 20 full-time equivalent (FTE) positions for the Wage and Hour Division's compliance activities among employers of homeworkers (certified and noncertified). At the present time, the Department believes this increase to the current resources available should be sufficient. The Department has committed itself to maintaining a strong enforcement program for all homeworkers and will include further additional resources, as necessary, in its annual Budget requests to the Congress.

4. Difficulty in recovering back wages when violations were discovered

The Department recognizes that certified homeworker employers in the industries affected by this rule are mostly small entities, often with few assets to pay the back wages found due. However, there are thousands of small business employers in many other industries who have few cash reserves to pay back wage bills, and their operations have never been banned under the FLSA.

In the Department's view, employers of homeworkers in the restricted industries who come forward and obtain certificates are generally more likely to comply with the FLSA's requirements, and, in the event of violations, will be more responsive than other homeworker employers in achieving future compliance and paying any back wages due in order to retain their certificates.

Moreover, the final rule specifically addresses this problem by providing a mechanism whereby the Administrator can require that employers with poor compliance histories, as a condition for initial certification or certificate renewal, post bonds to cover potential back wage claims. The rule further establishes improved recordkeeping systems which will assist in identifying violations and permitting more precise back wage calculations. Finally, the rule establishes remedies (including the potential denial or revocation of certificates and civil money penalties) in addition to the basic FLSA sanctions for back wage liabilities.

Based on its experience in homework investigations since 1980, the Department believes the final rule, on balance, will result in the restoration of any back wages found due more effectively among certified employers than was the case under the prior rule with respect to homeworker employers in these industries.

Consideration of Alternatives to Certification

Prior to the promulgation of the final rule lifting the ban on the employment of homeworkers in the knitted outerwear industry, the Department carefully considered various alternatives to a total rescission of the ban (49 FR 44268). These alternatives were rejected and the certification system was adopted. Although comments on alternatives were specifically invited, the current rulemaking record provided no significant comments on these or other alternatives to the certification program. Following are the alternatives which were considered and rejected:

A. *Remove the restrictions on homework in rural areas but retain restrictions for urban areas.* Under this alternative proposal, only persons residing in rural areas, as defined by the Secretary, would be permitted to engage in homework in the restricted industries.

The Department has concluded that the alternative of removing the restrictions on homework in rural areas and retaining the restrictions in urban areas is not appropriate. Many of the comments favoring the proposals were received from individuals in rural areas, and these indicated the need to permit homework in such areas. Moreover, it would be difficult to devise a workable definition of the terms "rural" and "urban" that would avoid inequitable treatment of employees. The distinctions between "urban" and "rural" would be further complicated by urban employers who hired rural homeworkers, and vice versa. Finally, the Act authorizes the Department to restrict homework only to the extent necessary to safeguard the minimum wage. The Department believes that under the certification system with the additional enforcement mechanisms included in this rule, enforcement of the minimum wage provisions of the Act with respect to both urban and rural homeworkers is feasible and that compliance among certified urban and rural employers is more likely under this rule than under the prior ban.

B. *Expand the conditions for granting certificates permitting homework employment in the restricted industries.* Under this alternative proposal, the existing system for granting special individual employee certificates authorizing homework in the restricted industries would be expanded to include various additional categories of need, such as the following: The need to care for children or other family members; the lack of accessible factory employment; the lack of public transportation; and economic need.

The Department has concluded that this alternative is not feasible. It would be difficult to define what constitutes a "legitimate" need for an employee to

work at home and yet avoid inequities, and it could be difficult to monitor and guard against abuses (as, for example, situations in which the homeworker's "legitimate" needs changed over time or were seasonal or temporary) while providing the necessary flexibility to take into account individual circumstances.

C. *Transfer homework certification and enforcement responsibilities to the States.* The Department decided not to adopt this alternative as it is not feasible. The FLSA requires that the Secretary issue such rules regulating or restricting homework as are needed, without regard to State boundaries. Because of the possibility of different certification requirements among States, the Department is concerned that a transfer of certification and enforcement responsibilities to the States would be contrary to the statutory purpose of the FLSA to establish minimum uniform labor standards so as to prevent unfair competition. However, in keeping with the principle of federalism, and the Department's desire to avoid undermining any State homeworker rules, the certification program will not apply in States that ban homework in these industries. In such States, the federal ban on homework is retained.

Scope of the Final Rule

Under these regulations, employers in the restricted industries (other than those in women's apparel and in certain operations in the jewelry industry, and in States which restrict such homework) who obtain certificates are permitted to employ homeworkers, while employers without such certificate continue to be subject to the prohibitions on the employment of homeworkers. Employers legally utilizing homeworkers in these industries will be known to the Department; their homeworkers' names, addresses, and languages will be known to the Department through the biannual certification renewal process; such employers will be required to make written assurances of FLSA compliance, conduct time studies (or other work measurements) to establish piece rates; and post bonds if requested. Their compliance with the FLSA will be determined by investigation. Such employers will also be subject to civil money penalties and certificate revocation for violations. Employers who do not obtain certificates remain subject to the ban on the use of homeworkers. The Department is committed to continue its efforts to locate and investigate such employers. Homeworkers of certified employers in these industries who are paid properly will not be deprived of employment opportunities, and employers of homeworkers in these industries who fail to identify themselves and their homeworker will not be able to legally employ homeworkers.

Executive Order 12291

This rule 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) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to complete with foreign-based enterprises in domestic or export markets. Therefore no regulatory impact analysis is required.

Regulatory Flexibility Act

This rule will not have a significant effect on a substantial number of small entities. This conclusion is based on all information presently available to the Department concerning the employment of homeworkers. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect.

The Chief Counsel for Advocacy filed comments in support of the proposed rule and the amended proposal and indicated the belief that the certification program would provide significant benefits for small businesses by improving their competitive position and increasing their ability to offer flexibility in employment. In light of his view that the rule would likely have a substantial impact on a significant number of small businesses seeking to employ homeworkers, he urged that a regulatory impact analysis be published with the final rule. The Department has reviewed its preliminary conclusion that the rule will not have a significant effect on a substantial number of small entities in light of the record, and finds no reason to depart from that conclusion. No persuasive data have been identified by the Department or submitted by commenters which would quantify the potential impact on small entities (including factory employers) that would or would not employ homeworkers under this rule.

This document was prepared under the direction and control of Paula V. Smith, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects

29 CFR Part 516

Minimum wage, Reporting and recordkeeping requirements.

29 CFR Part 530

Employment, Investigations, Labor, Law enforcement, Minimum wages, Wages, Licenses.

For the reasons set forth above, 29 CFR Parts 530 and 516 are amended as set forth below.

Signed at Washington, DC, on this 7th day of November 1988.

Ann McLaughlin,

Secretary of Labor.

Fred W. Alvarez,

Assistant Secretary for Employment Standards.

Paula V. Smith,

Administrator, Wage and Hour Division.

PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

1. The authority citation for Part 530 is revised to read as set forth below and the authority citations following all of the sections in Part 530 are removed.

Authority: Sec. 11, 52 Stat. 1066 (29 U.S.C. 211) as amended by Sec. 9, 63 Stat. 910 (29 U.S.C. 211(d)); Secretary's Order No. 6–84, 49 FR 32473, August 14, 1984; and Employment Standards Order No. 85–01, June 5, 1985.

2. The table of contents is revised to read as follows:

Subpart A—General

Subpart B—Homeworker Employer Certificates

Subpart A—General

3. Sections 530.1 through 530.12 are retitled: Subpart A—General.

4. In § 530.1 paragraphs (b) through (j) are redesignated as (c) through (k) and a new paragraph (b) is added as follows:

§ 530.1 Definitions.

* * * * *

(b) "Administrator" as used in this part means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or an authorized representative of the Administrator.

* * * * *

5. Section 530.2 is revised to read as follows:

§ 530.2 Restriction of homework.

Except as provided in Subpart B of this part, no work in the industries defined in paragraphs (e) through (k) of § 530.1 shall be done in or about a home, apartment, tenement, or room in a residential establishment unless a special homework certificate issued and in effect pursuant to this part has been obtained for each homeworker or unless the homeworker is so engaged under the supervision of a Sheltered Workshop, as defined in § 525.2 of this chapter.

6. The headings to § 530.3, 530.4, 530.6, 530.7, 530.8, and 530.10 are revised as follows:

§ 530.3 Application forms for individual homeworker certificates.

§ 530.4 Terms and conditions for the issuance of individual homeworker certificates.

§ 530.6 Termination of individual homeworker certificates.

§ 530.7 Revocation and cancellation of individual homeworker certificates.

§ 530.8 Preservation of individual homeworker certificates.

§ 530.10 Delegation of authority to grant, deny, or cancel an individual homeworker certificate.

§ 530.4 [Amended]

7. In § 530.4, paragraph (c) in its entirety is removed.

8. The OMB information collection approval, which is displayed in parentheses at the end of § 530.4, is amended by removing the second sentence which refers to paragraph (c).

§ 530.13 [Removed]

9. Section 530.13 is removed.

10. New subparts B, C, D, and E are added as follows:

Subpart B—Homeworker Employer Certificates

§ 530.101 General.

(a) Except as provided in subpart C, a certificate may be issued to an employer authorizing the employment of homeworkers in

(1) The knitted outerwear, gloves and mittens, and embroideries industries as defined in paragraphs (g), (h), and (k), respectively, at § 530.1, effective January 9, 1989;

(2) in the button and buckle and handkerchief manufacturing industries as defined in paragraphs (i) and (j), respectively, of § 530.1, effective July 9, 1989; and

(3) in the jewelry industry as defined in paragraph (f) of § 530.1, effective July 9, 1989, but only where the employer's homeworkers are engaged exclusively in the stringing of beads and other jewelry and the carding and packaging of jewelry. The terms "carding and packaging of jewelry" include the attaching of jewelry to cards, boxing and wrapping, and the use of common household glues available to the general public, but do not include potentially hazardous operations such as the use of industrial glues, epoxies, soldering irons, or heating elements.

(b) This certificate may be issued irrespective of whether individual homeworkers meet the conditions set forth in paragraph (a) of § 530.4 of Subpart A. Unless suspended or revoked, such certificates are valid for two-year periods. Applications for renewals must be submitted no later than thirty (30) days prior to the expiration date of the current certificate. Except as provided in subpart A, in the absence of a certificate, the employment of homeworkers in these industries is prohibited, and an employer violating this prohibition is subject to all the sanctions provided in the Fair Labor Standards Act and in this part, including an injunction restraining the employment of homeworkers.

(c) Certificates authorizing such employment may be issued on the following terms and conditions upon written application to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

§ 530.102 Requests for employer certificates.

The initial request for certification or renewal application shall be signed by the employer and shall contain the name of the firm, its mailing address, the physical location of the firm's principal place of business and a description of the business operations and items produced. In addition, the initial or renewal application shall contain the names, addresses, and languages (if other than English) spoken by the homeworkers that are currently employed (if any) or expected to be employed. The employer shall also provide the Administrator, within thirty (30) days, a notice of each change of address of the principal place of business. The notification shall be in writing and addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

§ 530.103 Employer assurances.

In order to be granted a certificate authorizing the employment of industrial homeworkers, the employer must provide written assurances concerning the employment of homeworkers subject to section 11(d) of the Fair Labor Standards Act to the effect that:

(a) All homeworkers shall be paid in accordance with the monetary provisions of the Act.

(b) All homeworkers shall be employed in compliance with the child labor provisions contained in section 12 of the Act and regulations and orders issued pursuant to section 12. All

homeworkers will be instructed not to permit minors to work in violation of such provisions.

(c) Records of hours worked and wages paid shall be maintained in accordance with section 11 of the Act and Part 516 of this chapter.

(d) All homeworkers shall complete homeworker handbooks in accordance with § 516.31 of Part 516.

(e) All homeworkers will be instructed to accurately record all hours worked, piece work information, and business-related expenses in the handbooks.

(f) All records shall be made available for inspection and transcription by the Administrator or a duly authorized and designated representative, or transcription by the employer upon written request.

(g) Piece rates paid to homeworkers shall be established using stop watch time studies or other work measurement methods.

(h) All homeworkers shall be encouraged to cooperate with the Department in any investigation that may be made.

(i) With respect to jewelry manufacturing, no operations other than the stringing of beads and other jewelry and the carding and packaging of jewelry will be performed by homeworkers.

§ 530.104 Bonding or security payments.

(a) Where in the Administrator's judgment there is not sufficient reason to believe that the Act will be complied with or that money will be available if violations of the Act occur, the Administrator may condition issuance or renewal of a certificate to an employer upon the furnishing of a bond with a surety or sureties satisfactory to the Administrator.

(b) The Administrator shall condition issuance or reinstatement of a certificate to any employer whose application for a certificate had previously been denied, or whose certificate had been revoked, upon the furnishing of a bond.

(c) Any bond required by the Administrator under paragraph (a) or (b) of this section shall be in an amount determined by the Administrator, up to $2500 for each homeworker to be employed by such employer under the certificate. In lieu of a bond, the employer may furnish a cash payment of equal amount, to be held in a special deposit account by the Administrator for the period during which the certificate is in effect. Such bond, or cash payment, shall be subject to payment or forfeiture, in whole or in part, upon a final determination that the employer has failed to pay minimum wages or overtime compensation to homeworkers in accordance with the Act. Any sums thus paid or forfeited to the Administrator shall be disbursed to affected homeworkers in accordance with section 16(c) of the Act.

(d) At the Administrator's discretion, the obligation of a bond may be relieved, and any cash payment held as security in lieu thereof may be refunded (together with any interest accrued thereon), upon a subsequent determination that the employer is in compliance with the Act and that sufficient funds will be available to meet back wage payment obligations in the event of violations of the Act.

§ 530.105 Investigations.

Any employer in a restricted industry who requests certification to employ homeworkers will be investigated promptly after the issuance of the certificate by the Wage and Hour Division. Where such an employer is found to be in violation of the FLSA, and the violations are corrected and future compliance is promised, the firm will be reinvestigated to assure that full FLSA compliance has, in fact, been achieved.

Subpart C—Denial/Revocation of Homeworker Employer Certificates

§ 530.201 Conflict with State law.

No certificate will be issued pursuant to § 530.101 of subpart B above authorizing the employment of homeworkers in an industry in a State where the Governor (or authorized representative) has advised the Administrator of the Wage and Hour Division in writing that the employment of homeworkers in such industry, as defined in paragraphs (f) through (k) of § 530.1, is illegal by virtue of a State labor standards or health and safety law.

§ 530.202 Piece rates—work measurement.

(a) No certificate will be issued pursuant to § 530.101 of subpart B to an employer who pays homeworkers based on piece rates unless the employer establishes the piece rates for the different types of items produced using stop watch time studies or other work measurement methods. Documentation of the work measurements used to establish the piece rates, and the circumstances under which such measurements were conducted shall be retained for three years and made available on request to the Wage and Hour Division.

(b) The fact that an employer bases piece rates on work measurements which indicate that the homeworkers would receive at least the minimum wage at such piece rate(s) does not relieve the employer from the Act's requirement that *each* homeworker actually receive not less than the minimum wage for all hours worked.

§ 530.203 Outstanding violations and open investigations.

A homework certificate will not be issued or renewed by the Administrator if, within the previous three years, the Administrator has found and notified the applicant of a monetary violation of the Fair Labor Standards Act in an amount certain, or the Administrator has assessed a civil money penalty pursuant to subpart D of these regulations or Part 579 of this chapter (child labor), and such amounts are unpaid, or if the applicant is the subject of a revocation proceeding at the time of the application for renewal, or the applicant is the subject of an open investigation.

§ 530.204 Discretionary denial or revocation.

Where the Administrator finds that the employment of homeworkers under a certificate is likely to result in violations of the Fair Labor Standards Act, the regulations issued thereunder, or the assurances required by this part, the Administrator may deny or revoke the certificate.

§ 530.205 Mandatory denial or revocation.

The Administrator shall deny or revoke a certificate in accordance with the following standards and for the period specified in the standards:

(a) *Serious wage violations.* Upon a finding by the Administrator of a serious wage violation, a certificate shall be denied (including refusal to renew) or revoked for one year. A serious wage violation is defined as minimum wage or overtime pay violations of the Act totalling $10,000 or more with respect to homeworkers; or minimum wage violations where 10 percent or more of a certificate holder's homeworkers (but in all cases at least two homeworkers) failed to receive at least 80 percent of the minimum wage for all hours worked for 6 or more weeks in any 3 month period; or minimum wage or overtime pay violations affecting more than half of the homeworkers of the certificate holder for 6 or more weeks in any 3 month period. All other wage violations are deemed non-serious wage violations for purposes of this section.

(b) *Repeated wage violations.* For repeated wage violations found by the Administrator, a certificate shall be denied or revoked for one to three years, depending on the seriousness and frequency of the violations.

(c) *Child labor violations.* Upon a finding by the Administrator of a violation of the child labor provisions of section 12 of the Fair Labor Standards Act and the regulations at Part 570 of this title, a certificate shall be denied or revoked for one year. Upon a second finding by the Administrator of such a violation, the certificate shall be denied or revoked for three years.

(d) *Failure to pay back wages or civil money penalties judged owing.* Upon the failure of a certificate holder to pay within 60 days back wages or civil money penalties finally judged by a court, administrative law judge or other appropriate authority, as the case may be, to be owed by the certificate holder, or agreed to be paid by the certificate holder, or within such longer period as may be specified in the final order or agreement, a certificate shall be denied or revoked for up to one year or for such period as such obligation shall remain unpaid if longer than one year.

(e) *Failure to cooperate in an investigation.* Where the Administrator finds obstruction of or other failure to cooperate in a Wage and Hour investigation by a certificate holder which impedes the investigation, the certificate shall be denied or revoked for a period of one to three years, depending on the circumstances. For purposes of this regulation, cooperation includes providing records upon request to Wage and Hour compliance officers, identifying homeworkers of the certificate holder, and encouraging homeworkers to make themselves available in connection with an investigation.

(f) *Serious recordkeeping violations.* Upon a finding by the Administrator that a certificate holder has engaged in a serious recordkeeping violation, the certificate may be revoked for up to one year. Upon a second finding by the Administrator of a serious recordkeeping violation, a certificate shall be denied or revoked for one to three years. A serious recordkeeping violation is defined as one where, either through errors in or omissions of required information, the name and current address of homeworkers and the data which is necessary for the accurate determination of hours worked by or wages paid to homeworkers or data necessary for the computation of wages owed to homeworkers is unavailable with respect to 10 percent or more of the homeworkers.

(g) *Deliberate misstatement in an application for a certificate or in other documents.* Upon a finding by the Administrator of a deliberate misstatement of a material fact in an application for a certificate, in payroll records, or in any other information submitted to the Wage and Hour Division or maintained by the employer pursuant to these regulations, the certificate shall be denied or revoked for one to three years.

(h) *Discrimination against a homeworker.* Upon a finding by the Administrator that a certificate holder has discharged or otherwise discriminated against a homeworker with respect to the homeworker's compensation or terms, conditions, or privileges of employment because the homeworker engaged in protected activity, the certificate shall be denied or revoked for three years. Protected activity is defined as: (1) Any complaint of a violation of the Act to the employer, the Department or other appropriate authority, or (2) any action which furthers the enforcement of or compliance with the Act, such as giving information to a Wage and Hour compliance officer.

§ 530.206 Special circumstances.

At the discretion of the Administrator, a certificate need not be denied or revoked pursuant to §§ 530.204 or 530.205 of this subpart if the Administrator finds all of the following:

(a) The certificate holder, despite the exercise of due care, did not know and did not have reason to know of the violations;

(b) All back wages and civil money penalties found by the Administrator to be owing by the certificate holder have been paid; and

(c) The certificate holder has taken appropriate steps to prevent recurrence of the violations.

Subpart D—Civil Money Penalties

§ 530.301 General.

A system of civil money penalties is established to provide a remedy for any violation of the FLSA related to homework (except child labor violations, which are subject to civil money penalties pursuant to Part 579 of this chapter), or for any violation of the homeworker regulations or employers' assurances pursuant to this Part, which are not so serious as to warrant denial or revocation of a certificate. Accordingly, no civil money penalty will be assessed for conduct which serves as the basis of proposed denial or revocation of a certificate. (See Subpart C of this part.) Civil money penalties will be assessed only against employers who are operating under a certificate or who are seeking certification.

§ 530.302 Amounts of civil money penalties.

(a) A civil money penalty, not to exceed $500 per affected homeworker for any one violation, may be assessed for any violation of the Act or of this Part or of the assurances given in connection with the issuance of a certificate.

(b) The amount of civil money penalties shall be determined per affected homeworker within the limits set forth in the following schedule, except that no penalty shall be assessed in the case of violations which are deemed to be *de minimis* in nature:

Nature of violation	Penalty per affected homeworker		
	Minor	Substantial	Repeated, intentional or knowing
Recordkeeping	$10–100	$100–200	$200–500
Monetary violations	10–100	100–200	.....
Employment of homeworkers without a certificate	.....	100–200	200–500
Other violations of statutes, regulations or employer assurances	10–100	100–200	200–500

§ 530.303 Considerations in determining amounts.

(a) In determining the amount of a penalty within any range, the Administrator shall take into account the presence or absence of circumstances such as the following:

(1) Good faith attempts to comply with the Act or regulations;

(2) Extent to which the violation is under the employer's control;

(3) Non-culpable ignorance of the requirements of the Act or regulations;

(4) False documents or representations; and

(5) Exercise of due care.

(b) An employer's financial inability to meet obligations under the Act shall not constitute a mitigating or extenuating circumstance.

(c) No civil money penalty shall be assessed against an employer, who applies for a certificate, solely for employing homeworkers, provided the employer is not currently under investigation by the Wage and Hour Division.

§ 530.304 Procedures for assessment.

Assessment of penalties pursuant to this section, including administrative proceedings, shall be in accordance with

the procedures set out in Subpart E of this part.

Subpart E—Administrative Procedures

§ 530.401 Applicability of procedures and rules.

The procedures and rules contained herein prescribe the administrative process which will be applied with respect to a determination to deny (including refusal to renew) or revoke a certificate and to a determination to assess civil money penalties. Special rules and procedures for the emergency revocation of certificates are prescribed in § 530.412 of this subpart.

§ 530.402 Notice of determination.

Whenever the Administrator determines to deny or revoke a certificate or determines to assess a civil money penalty, the person affected by such determination shall be notified of the determination in writing, by certified mail to the last known address. The notice required shall:

(a) Set forth the determination of the Administrator, including the specific statutory or regulatory provision or assurance violated, the reasons for denying or revoking a certificate, or the amount of any civil money penalty assessment and the reason or reasons therefor.

(b) Set forth the right to request a hearing on such determination.

(c) Set forth the time and method for requesting a hearing, and the procedures relating thereto, as set forth in § 530.403 of this subpart.

(d) Inform any affected person or persons that in lieu of formal proceedings there is available an alternative summary proceeding under § 530.412 of this subpart.

(e) Inform any affected persons that in the absence of a timely request for a hearing the determination of the Administrator shall become final and unappealable.

§ 530.403 Request for hearing.

(a) Except in the case of an emergency revocation under § 530.411 of this subpart, a request for an administrative hearing on a determination referred to in § 530.402 of this subpart shall be made in writing to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington DC 20210, and must be received no later than thirty (30) days after issuance of the notice referred to in § 530.402 of this subpart.

(b) No particular form is prescribed for any request for a hearing permitted by this part. However, any such request shall be typewritten or legibly written; specify the issue or issues stated in the notice of determination giving rise to such request; state the specific reason or reasons why the person requesting the hearing believes such determination is in error; be signed by the person making the request or by an authorized representative of such person; and include the address at which such person or authorized representative desires to receive further communications relating thereto.

(c) In the case of an emergency revocation, a request for an administrative hearing shall be made in writing to the Chief Administrative Law Judge, U.S. Department of Labor, 1111 20th Street, NW., Suite 700, Washington, DC 20036, and must be received no later than 20 days after the issuance of the notice referred to in § 530.402 of this subpart.

§ 530.404 Referral to Administrative Law Judge.

Upon receipt of a timely request for a hearing, the request and a copy of the notice of administrative determination complained of, shall, by Order of Reference, be referred to the Chief Administrative Law Judge, for a determination in an administrative proceeding as provided herein. The notice of administrative determination and request for hearing shall, respectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceedings, subject to any amendment that may be permitted under 29 CFR Part 18.

§ 530.405 General.

Except as specifically provided in these regulations, the "Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges" established by the Secretary at 29 CFR Part 18 shall apply to administrative proceedings described in this subpart.

§ 530.406 Decision and order of Administrative Law Judge.

(a) The Administrative Law Judge shall prepare, after completion of the hearing and closing of the record, a decision on the issues referred by the Administrator.

(b) The decision of the Administrative Law Judge shall include a statement of findings and conclusions, with reasons and basis therefor, upon each material issue presented on the record. If the Administrative Law Judge finds that the Administrator has established by a preponderance of the evidence the factual basis for the determination to deny or revoke a certificate or to assess a civil money penalty, that determination shall be affirmed. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator. The reason or reasons for such order shall be stated in the decision.

(c) The decision shall be served on all parties and the Secretary in person or by certified mail. The decision when served by the Administrative Law Judge shall constitute the final order of the Department of Labor unless the Secretary, as provided for in § 530.407 of this subpart, determines to review the decision.

§ 530.407 Procedures for initiating and undertaking review.

Any party desiring review of the decision of the Administrative Law Judge may petition the Secretary to review the decision. To be effective, such petition must be received by the Secretary within 30 days of the date of the decision of the Administrative Law Judge. Copies of the petition shall be served on all parties and on the Chief Administrative Law Judge. If the Secretary does not issue a notice accepting a petition for review within 30 days after receipt of a timely filing of the petition, or within 30 days of the date of the decision if no petition has been received, the decision of the Administrative Law Judge shall be deemed the final agency action.

§ 530.408 Notice of the Secretary to review decision.

Whenever the Secretary determines to review the decision and order of an Administrative Law Judge, the Secretary shall notify each party of the issue or issues raised; the form in which submission shall be made (i.e., briefs, oral argument, etc.); and, the time within which such presentation shall be submitted.

§ 530.409 Final decision of the Secretary.

The Secretary's final decision shall be served upon all parties and the Administrative Law Judge, in person or by certified mail.

§ 530.410 Special procedures.

In a revocation proceeding pursuant to § 530.205(d) of subpart C of this part arising as a result of a certificate holder's failure to pay back wages or civil money penalties judged owing, the Administrator may file a motion for expedited decision, attaching to the notice, by affidavit or other means, evidence that a final order has been entered or agreement signed requiring

respondent to pay back wages or civil money penalties and that the back wages or civil money penalties have not been paid. The respondent in the proceeding shall have 20 days in which to file a countering affidavit or other evidence. If no evidence countering the material assertions of the Administrator has been submitted within 20 days, the Administrative Law Judge shall, within 30 days thereafter, affirm the revocation or denial of the certificate. If the respondent does timely file such evidence, the Administrative Law Judge shall schedule a hearing pursuant to § 530.411(c) of this subpart and the case shall be subject to the expeditious procedures following therein.

§ 530.411 Emergency certificate revocation procedures.

(a) When the Administrator determines that immediate revocation of a homework certificate is necessary to safeguard the payment of minimum wages to homeworkers, a notice of proposed emergency revocation of a certificate shall be sent to the certificate holder pursuant to § 530.402 of this subpart setting forth reasons requiring emergency revocation of the certificate.

(b) If no request for a hearing pursuant to § 530.403 of this subpart is received within 20 days of the date of receipt of the notice by the certificate holder, the proposed revocation of the certificate shall become final.

(c) The Office of Administrative Law Judges shall notify the parties at their last known address, of the date, time and place for the hearing, which shall be no more than 60 days from the date of receipt of the request for the hearing. All parties shall be given at least 5 days notice of such hearing. No requests for postponement shall be granted except for compelling reasons.

(d) The Administrative Law Judge shall issue a decision pursuant to § 530.406 of this subpart within 30 days after the termination of a proceeding at which evidence was submitted. The decision shall be served on all parties and the Secretary by certified mail and shall constitute the final order of the Department of Labor unless the Secretary determines to review the decision.

(e) Any party desiring review of the decision of the Administrative Law Judge may petition the Secretary to review the decision of the Administrative Law Judge. To be effective, such petition must be received by the Secretary within 30 days of the date of the decision of the Administrative Law Judge. If the Secretary does not issue a notice accepting a petition for review within 15 days after receipt of a timely filing of the petition, or within 30 days of the date of the decision if no petition is filed, the decision of the Administrative Law Judge shall be deemed the final agency action.

(f) The Secretary's decision shall be issued within 60 days of the notice by the Secretary accepting the submission, and shall be served upon all parties and the Administrative Law Judge, in person or by certified mail.

§ 530.412 Alternative summary proceedings.

In lieu of an administrative hearing before an Administrative Law Judge under the above procedures, an applicant or certificate holder who does not dispute the factual findings of the Administrator may, within 30 days of the date of issuance of the notice of denial, revocation, or assessment (or within 20 days in the case of a notice of emergency revocation) petition the Administrator instead to reconsider the denial or revocation of the certificate or the assessment of civil money penalties. An applicant or certificate holder electing this informal procedure may appear before the Administrator in person, make a written submission to the Administrator, or both. Such reconsideration by the Administrator shall be available only upon waiver by the applicant or certificate holder of the formal hearing procedures provided by the above regulations.

§ 530.413 Certification of the record.

Upon receipt of a complaint seeking review of a final decision issued pursuant to this part filed in a United States District Court, after the administrative remedies have been exhausted, the Chief Administrative Law Judge shall promptly index, certify and file with the appropriate United States District Court, a full, true, and correct copy of the entire record, including the transcript of proceedings.

§ 530.414 Equal Access to Justice Act.

Proceedings under this part are not subject to the provisions of the Equal Access to Justice Act. In any hearing conducted pursuant to these regulations, Administrative Law Judges shall have no power or authority to award attorney fees or other litigation expenses pursuant to the Equal Access to Justice Act.

PART 516—RECORDS TO BE KEPT BY EMPLOYERS

11. The authority citation for Part 516 continue to read as follows:

Authority: Sec. 11, 52 Stat. 1066, as amended, 29 U.S.C. 211 516.33 also issued under 52 Stat. 1060, as amended; 29 U.S.C. 201 *et seq.*

12. Paragraphs (b) and (c) of § 516.31 are revised to read as follows:

§ 516.31 Industrial homeworkers.

* * * * *

(b) *Items required.* In addition to all of the records required by § 516.2, every employer of homeworkers shall maintain and preserve payroll or other records containing the following information and data with respect to each and every industrial homeworker employed (excepting those homeworkers to whom section 13(d) of the Act applies and those homeworkers in Puerto Rico to whom Part 545 of this chapter applies, or in the Virgin Islands to whom Part 695 of this chapter applies):

(1) With respect to each lot of work:

(i) Date on which work is given out to worker, or begun by worker, and amount of such work given out or begun;

(ii) Date on which work is turned in by worker, and amount of such work;

(iii) Kind of articles worked on and operations performed;

(iv) Piece rates paid;

(v) Hours worked on each lot of work turned in;

(vi) Wages paid for each lot of work turned in.

(2) With respect to any agent, distributor, or contractor: The name and address of each such agent, distributor, or contractor through whom homework is distributed or collected and the name and address of each homeworker to whom homework is distributed or from whom it is collected by each such agent, distributor, or contractor.

(c) *Homeworker handbook.* In addition to the information and data required in paragraph (b) of this section, a separate handbook (to be obtained by the employer from the Wage and Hour Division and supplied by such employer to each worker) shall be kept for each homeworker. The employer is required to insure that the hours worked and other information required therein is entered by the homeworker when work is performed and/or business-related expenses are incurred. This handbook must remain in the possession of the homeworker except at the end of each pay period when it is to be submitted to the employer for transcription of the hours worked and other required information and for computation of wages to be paid. The handbooks shall include a provision for written verification by the employer attesting that the homeworker was instructed to accurately record all of the required information regarding such

homeworker's employment, and that, to the best of his or her knowledge and belief, the information was recorded accurately. Once no space remains in the handbook for additional entries, or upon termination of the homeworker's employment, the handbook shall be returned to the employer. The employer shall then preserve this handbook for at least two years and make it available for inspection by the Wage and Hour Division on request.

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Part V

Department of Education

34 CFR Parts 316 and 318

Handicapped Education Program; Final Rule and Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Parts 316 and 318

Training Personnel for the Education of the Handicapped

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Training Personnel for the Education of the Handicapped Program under Part D of the Education of the Handicapped Act (EHA). These amendments are needed to implement changes made by the Education of the Handicapped Act Amendments of 1986. The intended effect of these regulations is to clarify the statutory requirements and improve the operation of the program.

EFFECTIVE DATE: These regulations will take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Norman Howe, Division of Personnel Preparation, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3072—M/S 2651), Washington, DC 20202. Telephone: (202) 732–1068.

SUPPLEMENTARY INFORMATION: The Training Personnel for the Education of the Handicapped Program is authorized by sections 631 and 632 of the EHA. Section 631 creates three specific programs, providing grants to (1) private nonprofit organizations for parent training and information, (2) institutions of higher education (IHEs) and nonprofit organizations training personnel for careers in special education and early intervention, and (3) IHEs and nonprofit organizations for special projects. Section 632 provides for grants to State educational agencies (SEAs) and IHEs for preservice and inservice personnel training.

In the past, the regulations implementing all four programs were included under 34 CFR Part 318, and the same selection criteria were used in reviewing applications submitted under that part. However, in order to clarify the separate requirements for the programs, and to allow separate selection criteria, 34 CFR Part 318 is being divided into three separate parts.

The final regulations for the program authorized by section 632 were published July 8, 1987 as Part 319.

The new Part 316 and Part 318 contain the regulations for Parent Training and Information Centers, and Training Personnel for Careers in Special Education and Early Intervention authorized by section 631. Three separate components are addressed in these final regulations: Parent training and information centers; training personnel for careers in special education and early intervention; and special projects.

Under the parent training and information centers program, eligible parent organizations may submit applications to provide training and dissemination of information to parents of children and youth with handicaps, and to professionals and paraprofessionals who work with parents, to enable parents to participate more fully and effectively with professionals in meeting the educational needs of children and youth with handicaps. The Secretary will select applications for funding based on the selection criteria established in the regulations.

Under the training personnel for careers in special education and early intervention program, eligible applicants may conduct preservice training of personnel for careers in special education and early intervention. In the special projects program, applicants may conduct preservice and inservice training activities.

On July 11, 1988 the Secretary published a Notice of Proposed Rulemaking (NPRM) for the Training Personnel for the Education of the Handicapped in the Federal Register (53 FR 26190).

Analysis of Comments and Changes

A technical change has been made to § 318.5, due to the publication in the Education Department General Administrative Regulations (EDGAR) of the new 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). Effective October 1, 1988, Part 80, and not Part 74, applies with respect to grants and cooperative agreements to State and local governments.

In response to the Secretary's invitation in the NPRM, several parties submitted comments on the proposed regulations. However, no significant changes have been made to the regulations. The comments received and the Department's responses are summarized below.

Section 316.1

Comments: Two commenters recommended that throughout Part 316 whenever the term "children" or "children and youth" appears it instead should read "infants, toddlers, children, and youth". Specifically, one of the two commenters suggested that § 316.3(b) be amended to read "under Part B and Part H of the Act."

Discussion: The Secretary finds no support in the statutory language or legislative history of the EHA for the specific inclusion of the term "infants and toddlers" or specific reference to Part H in the program regulations to implement section 631(c) of the EHA. However, the Department has and will continue to define "child" or "children" to include individuals birth to age two, inclusive, for purposes of this program. Thus, parents of infants and toddlers with handicaps are not excluded from receiving training and information assistance under this program.

Changes: No changes have been made in response to these comments.

Section 316.1

Comments: One commenter suggested a need to mention the ten percent set aside for parent training authorized by section 635(c) of the EHA.

Discussion: The purpose of these regulations is to implement and, as necessary, clarify the statutory requirements. The requirement under section 635(c) is clear and needs no implementing regulation.

Changes: No change has been made in response to this comment.

Section 316.1

Comments: One person requested that authority be given to SEAs to approve or disapprove parent training projects.

Discussion: The Training Personnel for the Education of the Handicapped Program was designed by Congress to be administered by the U.S. Department of Education through the Division of Personnel Preparation within the Office of Special Education and Rehabilitative Services.

Changes: No changes have been made in response to this comment.

Section 318.2

Comments: Three commenters asked for more guidance to applicant agencies in meeting State and professional standards. Another commenter questioned if an arts non-profit agency would be eligible to apply.

Discussion: Applicants must look to their State's standards and those standards applicable to professionals in specific fields to evaluate their eligibility

to apply for an award. Although the Federal Government does not regulate in this area, it relies upon the States and professionals in the field to regulate themselves.

Changes: No changes have been made in response to these comments.

Section 318.3

Comments: One person recommended that only IHEs be allowed to apply for preservice training grants under §§ 318.3 (b) and (c). Another requested that local educational agencies (LEAs) and intermediate educational units (IEUs) be included.

Discussion: Section 631(a)(1) of the EHA authorizes the Secretary to make awards to both IHEs and other appropriate nonprofit agencies, but not to LEAs or IEUs.

Changes: No changes have been made in response to these comments.

Section 318.4

Comments: One commenter favored the collapsing of all priorities into two: special educators and related services personnel.

Discussion: The Secretary believes that more specialized priorities are needed in order to target funds to shortage areas.

Changes: No changes have been made in response to this comment.

Section 318.4

Comments: One commenter suggested adding a priority for the preparation of consultant teachers.

Discussion: The preparation of consultant teachers is an allowable activity under the special educators priority.

Changes: No changes have been made in response to this comment.

Section 318.4

Comments: One commenter recommended expanding the transition priority to include training of leadership personnel.

Discussion: The Secretary agrees that transition has grown to include a broad set of issues within special education. Both theory and implementation issues require attention by persons trained at the doctoral level.

Changes: Section 318.4(a) has been changed to read "* * * doctoral and postdoctoral preparation may be supported only under the priorities described in paragraphs (b)(3), (b)(4), and (b)(8) of this section," *i.e.*, leadership, transition, and special projects.

Section 318.4

Comments: Three requests were made to use the words "infants and toddlers" instead of "newborn and infant", to add these words consistently throughout the regulations, and to insert "early intervention" wherever appropriate.

Discussion: The requested terminology is consistent with section 631 (a) and (b) of the EHA and with Part H of the EHA.

Changes: The priority at § 318.4(b)(5) has been changed to read, "Preparation of personnel to provide services to infants and toddlers with handicaps." The terms "early intervention" and "infants and toddlers" have been added in appropriate places at §§ 318.1, 318.4, and 318.21. A reference to Part H has been added at § 318.21(a)(2)(vii).

Section 318.4

Comments: Two people addressed the related services priority. One asked that school psychologists be specifically mentioned, and the second recommended that a distinction be made between the delivery of services in a public school versus non-public school setting, such as hospital, home, or institution.

Discussion: School psychologists are already included in the priority as personnel who provide "other supportive services". The program is authorized for training personnel for the education of the handicapped. There is no limitation on the setting in which training may be provided.

Changes: No changes have been made in response to these comments.

Section 318.4

Comments: Twelve comments were received objecting to the replacement of the minority preference priority with the priority for the preparation of personnel for special populations of children with handicaps at § 318.4(b)(6). Eight commenters requested that the exact wording of the current equal opportunity requirement in § 318.21(a) be kept. One person asked that the needs of traditionally underrepresented parents be addressed in Part 316.

Discussion: The preparation of minority handicapped personnel remains an allowable activity under the special populations priority. Racially neutral standards and criteria in the regulations expand the opportunity for other populations—heretofore not addressed—to benefit from the program. An effort has been made in these regulations not to single out a particular group by race or ethnic origin. There should be no difference in the opportunities provided minority and non-minority personnel working in special education and related areas.

Changes: No changes have been made in response to these comments.

Section 318.4

Comments: Two individuals recommended modification of the rural priority language from "training to assist personnel working with parents, teachers, and administrators" to language which clarifies that projects must be designed to train new personnel in this area.

Discussion: The Secretary agrees that the requested change adds clarification since the goal of the priority is to train new people to work with colleagues.

Changes: A change has been in the description of the rural priority at § 318.4(b)(7) as follows: "personnel to work with parents, teachers, and administrators in a rural environment."

Section 318.4

Comments: Three people objected to the proposed provision of personnel preparation for certain low-incidence populations and to the categories as listed because it appeared that new categories were being proposed that were not consistent with those identified in Part B of the EHA.

Discussion: The intent of the section is to ensure adequate support for personnel training for that portion of the population that generates low full-time equivalencies, and that universities find most expensive to train.

Changes: A change has been made to clarify the categories listed in § 318.4(c). They are as follows: Severe handicaps, deaf, blind, serious emotional disturbance, and other health impairments.

Section 318.21

Comments: One person said related services data in the arts are not collected from the State Comprehensive System of Personnel Development (CSPD) and feared that the impact on critical need criterion at § 318.21(a)(1) would adversely affect the potential for further development of these fields.

Discussion: The CSPD data is but one of a number of sources of needs data that may be included to support an application.

Changes: No changes have been made in response to this comment.

Section 318.21

Comments: One individual expressed apprehension that § 318.21(a)(2)(vii) might disadvantage private institutions compared to their public institution counterparts regarding collaboration

with SEAs. Another person suggested that SEAs should establish collaborative relationships with IHEs and LEAs.

Discussion: The collaboration between private institutions and SEAs is deemed important and necessary for the most efficient and effective delivery of services to occur. The Department has no reason to believe private institutions would be disadvantaged by this criterion. Collaborative cooperation is encouraged at § 318.21(a)(2) (vi) and (vii).

Changes: No changes have been made in response to these comments.

Section 318.21

Comments: Four comments were received recommending a decrease in the weighting of the first selection criterion (impact on critical present and projected need) and an increase in the weighting of the third selection criterion (plan of operation).

Discussion: The EHA Amendments of 1986 (Pub.L. 99–457) stated that the Secretary shall base awards on present and projected need and the capacity of the institution to train qualified personnel. This new wording in the statute is reflected in the weighting of the selection criteria. In light of this emphasis the Department believes that the proposed weighting is appropriate for these two criteria, but agrees that the plan of operation could be increased.

Changes: The weight of the plan of operation has been increased by five points and the evaluation plan has been reduced by five points in order to accommodate the 100 point scale.

Section 318.21

Comments: One commenter suggested integrating the discussion of practicum sites and local educational agencies into one section since they are closely related, and moving the discussion on collaboration to the section on impact on need.

Discussion: The Secretary deems the items are sufficiently distinct and hence appropriately placed.

Changes: No changes have been made in response to this comment.

Section 318.21

Comments: Four persons recommended eliminating the words "critical" and "reliable" in § 318.21(a)(1)(i)(A) and "publications" and "performance evaluations" in § 318.21(a)(2)(i), contending the former belong in applied research and the latter is of a confidential nature.

Discussion: The use of "critical" in the selection criteria is intended to allow the Secretary to consider the importance, as well as the presence, of a need for more or better-trained personnel. "Reliable" is interpreted to mean revelant, accurate, or dependable. The inclusion of "performance evaluations" was intended to elicit documentation of the quality of the applicant's key personnel.

Changes: The word "accurate" has been added to "reliable." "Positive performance evaluations" has been deleted; and in its place "and other professional contributions" has been added with the expectation applicants will thoroughly document the quality of their key personnel.

Section 318.21

Comments: One person recommended inserting the word "technology" in § 318.21(a)(3)(vii)(B) and § 318.21(b)(2)(ii)(B) because of its prominence in modern education.

Discussion: The Secretary agrees with the recommendation since recent technological innovations have made vast improvements in the ways people with handicaps can access information.

Changes: The sections have been modified to read, "Demonstrate an awareness of relevant methods, procedures, techniques, technology, and instructional media or materials * * * ."

Section 318.21

Comments: An individual commenter expressed the point of view that specifying preservice and inservice models only in the special projects priority may be too limiting.

Discussion: The Secretary agrees that a modification would allow projects to justifiably and productively address aspects of personnel preparation other than preservice and inservice models.

Changes: Section 318.21(b)(2)(i) has been altered to read "* * * its potential for replication and effectiveness, and the quality of its plan for dissemination * * *". Section 318.3(a)(3) has been changed as follows: "other projects of national significance for the preparation of personnel needed to serve infants, toddlers, children, or youth with handicaps."

Executive Order 12606

Regulations governing the Parent Training and Information Centers program will have a positive impact on the family and are consistent with Executive Order 12606—The Family. The regulations strengthen the authority and participation of parents in the education of their children by providing appropriate training and disseminating information.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They ae not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the NPRM the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States. Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 316

Education, Education of handicapped, Education-training, Grant programs-education, Nonprofit organizations, Teachers.

34 CFR Part 318

Education, Education of handicapped, Education-training, Grant programs-education, Student aid, Teachers.

Dated: October 19, 1988.

Lauro F. Cavazos,

Secretary of Education

(Catalog of Federal Domestic Assistance No. 84.029; Training of Personnel for the Education of the Handicapped)

The Secretary amends Title 34 of the Code of Federal Regulations by adding new Part 316 and by revising Part 318 to read as follows:

PART 316—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED—PARENT TRAINING AND INFORMATION CENTERS

Subpart A—General

Sec.

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

Sec.

Authority: 20 U.S.C. 1431 and 1434, unless otherwise noted.

Subpart A—General

§ 316.1 What is the purpose of this program?

(a) This program supports grants to parent organizations for the purpose of providing training and information to parents of children and youth with handicaps and to persons who work with parents, to enable parents to participate more fully and effectively with professionals in meeting the educational needs of their children and youth.

(b) Parent training and information programs may, at a grantee's discretion, include State or local educational agency personnel if that participation will further an objective of the program assisted by the grant.

(Authority: 20 U.S.C. 1431(c))

§ 316.2 Who is eligible for an award?

Parent organizations are eligible to receive grants under this program.

(Authority: 20 U.S.C. 1431(c))

§ 316.3 What activities may the Secretary fund?

Parent training and information projects assisted under this program must be designed to assist parents to—

(a) Understand the nature and needs of the handicapping conditions of their children and youth;

(b) Provide follow-up support for their children and youth's educational programs;

(c) Communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

(d) Participate fully in educational decisionmaking processes, including the development of their child or youth's individualized education program;

(e) Obtain information about the programs, services, and resources available to their children and youth, and the degree to which the programs, services, and resources are appropriate to meet the needs of their children and youth; and

(f) Understand the provisions for educating children and youth with handicaps under Part B of the Act.

(Authority: 20 U.S.C. 1431(c))

§ 316.4 What regulations apply to this program?

The following regulations apply to assistance under this program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions That Apply to Department Regulations), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 316.

(Authority: 20 U.S.C. 1431(c))

§ 316.5 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant.
Aplication.
Award.
Department.
EDGAR.
Fiscal year.
Local educational agency.
Nonprofit.
Private.
Project.
Secretary.
State.
State educational agency.

(b) *Definitions in 34 CFR Part 300.* The following terms used in this part are defined in 34 CFR Part 300:

Individualized education program (§ 300.340).
Parent (§ 300.10).
Related services (§ 300.13).
Special education (§ 300.14).

(c) *Other definitions specific to 34 CFR Part 316.* The following terms used in this part are defined as follows:

"Act" means the Education of the Handicapped Act (EHA).

"Children and youth with handicaps" means children and youth who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, or who have specific learning disabilities, and who by reason thereof need special education and related services.

"Parent organization" means a private nonprofit organization that is governed by a board of directors of which a majority of the members are parents of children and youth with handicaps and that includes professionals in the field of special education and related services who serve children and youth with handicaps; or if the nonprofit private organization does not have such a board, such organization shall have a membership representing the interests of individuals with handicaps and a special governing committee, a majority of the members of which are parents of children and youth with handicaps, and which includes professionals in the fields of special education and related services. The organization, in providing training and information under this part, must serve the parents of children and youth representing the full range of handicapping conditions. The organization must demonstrate the capacity and expertise to conduct the authorized training and information activities efectively.

(Authority: 20 U.S.C. 1431(c))

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

§ 316.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 316.21.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1431(c))

§ 316.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Extent of present and projected needs.* (15 points) The Secretary reviews each application to determine the extent to which the project makes an impact on parent training and information needs, consistent with the purposes of the Act, including consideration of the impact on—

(1) The present and projected needs in the applicant's geographic area for trained parents; and

(2) The present and projected training and information needs for personnel to work with parents of children and youth with handicaps.

(b) *Anticipated project results.* (25 points) The Secretary reviews each application to determine the extent to which the project will assist parents to—

(1) Understand the nature and needs of the handicapping conditions of their children and youth;

(2) Provide follow-up support for their children and youth's educational programs;

(3) Communicate more effectively with special and regular educators,

administrators, related services personnel, and other relevant professionals;

(4) Participate fully in educational decisionmaking processes, including the development of their child or youth's individualized educational program;

(5) Obtain information about the programs, services, and resources available to their children and youth and the degree to which the programs, services, and resources are appropriate to meet the needs of their children and youth; and

(6) Understand the provisions for educating children and yoth with handicaps under Part B of the Act.

(c) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) High quality in the design of the project;

(2) An effective management plan that ensures proper and efficient administration of the project;

(3) How the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project; and

(2) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

(e) *Quality of key personnel.* (15 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The time that each of the key personnel plans to commit to the project;

(4) How the applicant, as s part of its nondiscriminatory practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition; and

(5) Evidence of the applicant's past experience and training in fields related to the objectives of the project.

(f) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1431(c))

§ 316.22 What additional factors does the Secretary consider?

In addition to the criteria in § 316.21, the Secretary considers the following factors in making an award:

(a) *Geographic distribution.* In selecting projects for award, the Secretary ensures that, to the greatest extent possible, awards are distributed geographically, on a State or regional basis, throughout all the States and serve parents of children and youth with handicaps in both urban and rural areas.

(b) *Unserved areas.* In selecting projects for award, the Secretary gives priority to applications that propose to serve unserved areas.

(Authority: 20 U.S.C. 1431(c))

Subpart D—What Conditions Must a Grantee Meet?

§ 316.30 What types of services are required?

(a) Projects must be designed to meet the unique training and information needs of parents of children and youth with handicaps who live in the area to be served by the project, particularly those who are members of groups that have been traditionally underrepresented.

(b) A grantee shall consult with appropriate agencies that serve or assist children and youth with handicaps in the geographic areas served by the project.

(Authority: 20 U.S.C. 1431(c))

§ 316.31 What are the duties of the board of directors or special governing committee of a parent organization?

The recipient's board of directors or special governing committee as described in § 316.5 must meet at least once in each calendar quarter to review the parent training and information activities under the grant.

(Authority: 20 U.S.C. 1431(c))

PART 318—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED—CAREERS IN SPECIAL EDUCATION AND EARLY INTERVENTION

Subpart A—General

Sec.

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

Subpart D—What Conditions Must A Grantee Meet?

Authority: 20 U.S.C. 1431 and 1434, unless otherwise noted.

Subpart A—General

§ 318.1 What is the purpose of this program?

This program serves to increase the quantity and improve the quality of personnel available to serve infants, toddlers, children, and youth with handicaps through—

(a) The provision of awards to support the preservice training of personnel for careers in special education and early intervention in—

(1) Special education teaching, including speech-language pathology, audiology, and adaptive physical education;

(2) Related services to children and youth with handicaps in educational settings;

(3) Special education supervision and administration;

(4) Special education research; and

(5) Training of special education personnel and other personnel providing special services and preschool and early intervention services for infants, toddlers, children, and youth with handicaps; and

(b) Special projects designed to develop and demonstrate new approaches for the preservice training described in § 318.3(a) and also for inservice training activities.

(Authority: 20 U.S.C. 1431 (a) and (b) and 1434)

§ 318.2 Who is eligible for an award?

(a) The following agencies are eligible for assistance under this part:

(1) Institutions of higher education and other appropriate nonprofit agencies are eligible under § 318.1(a); and

(2) Institutions of higher education, State agencies, and other appropriate nonprofit agencies are eligible under § 318.1(b).

(b) In order to receive a preservice training grant under § 318.3, an institution or agency must demonstrate that it meets State and professionally recognized standards for the training of special education and related services personnel, as evidenced by appropriate State and professional accreditation, unless the grant is for the purpose of assisting the applicant agency or institution to meet those standards.

(Authority: 20 U.S.C. 1431(a)(2))

§ 318.3 What activities may the Secretary fund?

The Secretary supports three types of projects under this program:

(a) Special projects designed to include—

(1) Development, evaluation, and distribution of innovative approaches to personnel preparation;

(2) Development of materials to prepare personnel to educate or provide early intervention services to infants, toddlers, children, and youth with handicaps; and

(3) Other projects of national significance for the preparation of personnel needed to serve infants, toddlers, children, and youth with handicaps.

(b) Development of new programs designed to establish and increase the capacity and quality of preservice training; and

(c) Improvement of existing programs designed to maintain and upgrade the capacity and quality of preservice training.

(Authority: 20 U.S.C. 1431 (a) and (b))

§ 318.4 What priorities may the Secretary establish?

(a) Projects supported under this program that meet a priority as described in paragraph (b) or (c) of this section may provide training to degree, nondegree, certified, and noncertified personnel, except that doctoral and post-doctoral preparation may be supported only under the priorities described in paragraphs (b)(3), (b)(4), and (b)(8) of this section.

(b) The Secretary may select annually one or more of the following priority areas for funding:

(1) *Preparation of personnel for careers in special education and early intervention.* This priority supports projects under §§ 318.3 (b) and (c) that are designed to provide preservice training of personnel for careers in special education and early intervention, or supervisors of those personnel. The priority includes the preparation of special teachers of infants, toddlers, children, and youth with handicaps, special education administrators and supervisors, speech-language pathologists, audiologists, adaptive physical educators, vocational educators, and infant intervention specialists.

(2) *Preparation of related services personnel.* This priority supports projects under §§ 318.3 (b) and (c) that are designed to provide preservice preparation of individuals who provide developmental, corrective, and other supportive services that assist infants, toddlers, children, and youth with handicaps to benefit from special education. These include paraprofessional personnel, therapeutic recreation specialists, health service providers, physical therapists, occupational therapists, and other related services personnel.

(3) *Preparation of leadership personnel.* This priority supports projects under § 318.3 (b) and (c) that are designed to provide preservice doctoral and post-doctoral preparation of professional personnel such as administrators, supervisors, researchers, and teacher trainers.

(4) *Preparation of personnel for transition of youth with handicaps to adult and working life.* This priority supports projects under § 318.3 (b) and (c) that are designed to provide preservice preparation of individuals who assist youth with handicaps in their transition from school to adult roles. Personnel may be prepared to provide short-term transitional services, long-term structured employment services, or instruction in community and school settings with secondary school students.

(5) *Preparation of personnel to provide early intervention services to infants and toddlers with handicaps.* This priority supports projects under § 318.3 (b) and (c) that are designed to provide preservice preparation of individuals who serve infants and toddlers with handicaps or those who are at high risk of being handicapped. Personnel may be prepared to provide short-term services or long-term services that extend into a child's preschool program.

(6) *Preparation of personnel for special populations of infants, toddlers, children, and youth with handicaps.* This priority supports the preservice preparation of early intervention, special education, and related services personnel under § 318.3 (b) and (c) who will serve special populations of infants, toddlers, children, and youth with handicaps who, because of special characteristics, require professional competencies in addition to those needed for other infants, toddlers, children, and youth with similar disabilities. Project personnel funded under this priority must define a specific special population, describe the additional competencies that are needed by professionals serving that population, and describe how the project's training program will result in the attainment of those competencies.

(7) *Preparation of personnel to work in rural areas.* This priority supports projects under § 318.3 (b) and (c) that are designed to provide preservice training of personnel who will serve infants, toddlers, children, and youth with handicaps in rural areas. Projects must also be designed to provide training to assist personnel to work with parents, teachers, and administrators in a rural environment.

(8) *Special projects.* This priority supports projects with preservice and inservice activities specified in § 318.3(a).

(c) In addition to the priority areas described in paragraph (b) of this section, the Secretary may select annually as a priority the support of preservice preparation of special educators and early intervention personnel who serve infants, toddlers, children, and youth with low-incidence handicaps in a designated State or geographic area. Specifically, the Secretary may select one or more of the following low-incidence categories:

(1) Severe handicaps, including intense physical or mental problems, deaf-blindness, and other multiple handicaps.

(2) Deaf.

(3) Blind.

(4) Serious emotional disturbance.

(5) Other health impairments, including autism and chronic or acute health problems.

(Authority: 20 U.S.C. 1431 (a) and (b))

§ 318.5 What regulations apply to this program?

The following regulations apply to assistance under this program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and

Activities), and Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(b) The regulations in this Part 318.

(Authority: 20 U.S.C. 1431 (a) and (b) and 1434)

§ 318.6 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
EDGAR
Fiscal year
Grant period
Local educational agency
Nonprofit
Preschool
Private
Project
Public
Secretary
State
State educational agency

(b) *Definitions in 34 CFR Part 300.* The following terms used in this part are defined in 34 CFR Part 300:

Deaf (§300.5(b)(1))
Deaf-blind (§300.5(b)(2))
Other health impaired (§300.5(b)(7))
Seriously emotionally disturbed (§300.5(b)(8))
Related services (§300.13)
Special education (§300.14)

(c) *Definitions in 34 CFR Part 315.* The following term used in this part is defined in 34 CFR Part 315:

Severely handicapped children and youth (§ 315.4(d))

(d) *Other definitions specific to 34 CFR Part 318.* The following terms used in this part are defined as follows:

"Act" means the Education of the Handicapped Act (EHA).

"Children and youth with handicaps" means children and youth who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, or who have specific learning disabilities, and who by reason thereof need special education and related services.

"Early intervention services" means those developmental services which meet the requirements of section 672(2) of the EHA.

"Infants and toddlers with handicaps" as used in this part means children from birth through age two who need early intervention services because they—

(1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas—

(i) Cognitive development;

(ii) Physical development, including vision and hearing;

(iii) Language or speech development;

(iv) Psychosocial development;

(v) Self-help skills; or

(vi) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(2) The term may also include children from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided.

(Authority: 20 U.S.C. 1431 (a) and (b))

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

§ 318.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 318.21.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1431 (a) and (b))

§ 318.21 What selection criteria does the Secretary use?

(a) The Secretary uses the following criteria to evaluate all applications other than applications for special projects, as described in § 318.3(a).

(1) *Impact on critical present and projected need.* (30 points) The Secretary reviews each application to determine the extent to which the training will have a significant impact on critical State, regional, or national needs in the quality or the quantity of personnel serving infants, toddlers, children, and youth with handicaps. The Secretary considers—

(i) The significance of the personnel needs to be addressed to the provision of special education, related services and early intervention services. Significance of need identified by the applicant may be shown by—

(A) Evidence of critical personnel shortages in targeted specialty or geographic areas, as demonstrated by data from the State Comprehensive System of Personnel Development; reports from the Clearinghouse on Careers and Employment of Personnel serving children and youth with handicaps; or other indicators of need that the applicant demonstrates are relevant, reliable, and accurate; or

(B) Evidence showing significant need for improvement in the quality of personnel providing special education, related services and early intervention services, as shown by comparisons of actual and needed skills of personnel in targeted specialty or geographic areas; and

(ii) The impact the proposed project will have on the targeted need. Evidence that the project results will have an impact on the targeted needs may include—

(A) The projected number of graduates from the project each year who will have necessary competencies and certification to affect the need;

(B) For ongoing programs, the extent to which the applicant's projections are supported by the number of previous program graduates that have entered the field for which they received training, the professional contributions of those graduates, and data on the need for graduates in paragraph (a)(1)(ii)(A) of this section; and

(C) For new programs, the extent to which program features support the projections in § 318.21(a)(1)(ii)(A) of this section, and the applicant's plan for helping graduates locate appropriate employment in the area of need or the program features that ensure that graduates will have competencies needed to address identified qualitative needs.

(2) *Capacity of the institution.* (25 points) The Secretary reviews each application to determine the capacity of the institution or agency to train qualified personnel, including consideration of—

(i) The qualifications and accomplishments of the project director and other key personnel directly involved in the proposed training program, including prior training, publications, and other professional contributions;

(ii) The amount of time each key person plans to commit to the project;

(iii) The adequacy of resources, facilities, supplies, and equipment that the applicant plans to commit to the project;

(iv) The quality of the practicum training settings, including evidence that they are sufficiently available, apply state-of-the-art services and model teaching practices, materials and technology, provide adequate supervision to trainees, and offer opportunities for trainees to teach and foster interaction between students with handicaps and their non-handicapped peers;

(v) The capacity of the applicant to recruit well-qualified students;

(vi) The experience and capacity of the applicant to assist local public schools and early intervention service agencies in providing training to these personnel, including the development of model practicum sites; and

(vii) The extent to which the applicant cooperates with State educational agency (SEAs), the State designated lead agency under Part H of the Act, other institutions of higher education (IHEs), and other appropriate public and private agencies in the region served by the applicant in identifying personnel needs and plans to address those needs.

(3) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) High quality in the design of the project;

(ii) The extent to which the plan of management ensures effective, proper, and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition;

(vi) The extent to which the application includes a delineation of competencies that program graduates will acquire and how the competencies will be evaluated;

(vii) The extent to which substantive content and organization of the program—

(A) Are appropriate for the students' attainment of professional knowledge and competencies deemed necessary for the provision of quality educational and early intervention services for infants, toddlers, children, and youth with handicaps; and

(B) Demonstrate an awareness of methods, procedures, techniques, technology, and instructional media or materials that are relevant to the preparation of personnel who serve infants, toddlers, children, and youth with handicaps; and

(viii) The extent to which program philosophy, objectives, and activities implement current research and demonstration results in meeting the educational or early intervention needs of infants, toddlers, children, and youth with handicaps.

(4) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate for the project;

(ii) To the extent possible, are objective and produce data that are quantifiable, including, but not limited to, the number of trainees graduated and hired;

(iii) Provide evidence that evaluation data and student follow-up data are systematically collected and used to modify and improve the program. (See 34 CFR 75.590, Evaluation by the grantee.)

(5) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(i) The budget for the project is adequate to support the project activities;

(ii) Costs are reasonable in relation to the objectives of the project; and

(iii) The applicant presents appropriate plans for the institutionalization of Federally supported activities into basic program operations.

(b) The Secretary uses the following criteria to evaluate a special projects application described in § 318.3(a):

(1) *Anticipated project results.* (20 points) The Secretary reviews each application to determine the extent to which the project will meet present and projected needs under Parts B and H of the Act in special education, related services, or early intervention services personnel development.

(2) *Program content.* (20 points) The Secretary reviews each application to determine—

(i) The project's potential for national significance, its potential for replication and effectiveness, and the quality of its plan for dissemination of the results of the project;

(ii) The extent to which substantive content and organization of the program—

(A) Are appropriate for the attainment of knowledge that is necessary for the provision of quality educational and early intervention services to infants, toddlers, children, and youth with handicaps; and

(B) Demonstrate an awareness of relevant methods, procedures, techniques, technology, and instructional media or materials that can be used in the development of a model to prepare personnel to serve infants, toddlers, children and youth with handicaps; and

(iii) The extent to which program philosophy, objectives, and activities are related to the educational or early intervention needs of infants, toddlers, children, and youth with handicaps.

(3) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) How the objectives of the project relate to the purpose of the program; and

(iv) The way the applicant plans to use its resources and personnel to achieve each objective.

(4) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate for the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

(5) *Quality of key personnel.* (15 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each of the key personnel plans to commit to the project;

(iv) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition; and

(v) Evidence of the applicant's past experience and training in fields related to the objectives of the project.

(6) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(7) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1431 (a) and (b))

§ 318.22 What additional factors does the Secretary consider?

The Secretary makes awards for a one- to five-year period based on the nature of projected needs addressed by the project and the quality of the plan for meeting those needs.

(Authority: 20 U.S.C. 1431 (a) and (b))

Subpart D—What Conditions Must a Grantee Meet?

§ 318.30 Is student financial assistance authorized?

A grantee may use grant funds to provide traineeships or stipends. The sum of the assistance provided to a student through this part and any other assistance provided the student may not exceed the cost of attendance. Cost of attendance is defined as—

(a) Tuition and fees normally assessed a student carrying the same academic workload, as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(b) An allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

(c) An allowance (as determined by the institution) for room and board costs incurred by the student that—

(1) Will be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

(2) For students without dependents residing in institutionally owned or operated housing, will be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

(3) For all other students, will be an allowance based on the expenses reasonably incurred by the students for room and board, except that the amount may not be less than $2,500;

(d) For less than half-time students (as determined by the institution), tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (g) of this section);

(e) For a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specially in fulfilling a required period of residential training;

(f) For a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with the study (as determined by the institution);

(g) For a student with one or more dependents, an allowance (as determined by the institution) based on the expenses reasonably incurred for dependent care based on the number and age of the dependents;

(h) For a handicapped student, an allowance (as determined by the institution) for those expenses related to his or her handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies; and

(i) For a student receiving all or part of his or her instruction by means of telecommunications technology, no distinction must be made with respect to the mode of instruction in determining costs, but this paragraph may not be construed to permit including the cost of rental or purchase of equipment.

(Authority: 20 U.S.C. 1431 (a) and (b))

§ 318.31 What are the student finanical assistance criteria?

Direct financial assistance may only be paid to students in preservice programs and only if—

(a) The student is qualified for admission to the program of study;

(b) The student maintains satisfactory progress in a course of study as defined in 34 CFR 668.16(e);

(c) The student is a citizen or a national of the United States.

(Authority: 20 U.S.C. 1431 (a) and (b))

§ 318.32 May the grantee use funds if a financially assisted student withdraws or is dismissed?

Financial assistance awarded to a student that is unexpended because the student withdraws or is dismissed from the training program may be used for financial assistance to other students during the grant period.

(Authority: 20 U.S.C. 1431 (a) and (b))

[FR Doc. 88-25913 Filed 11-9-88; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

Invitation of Applications for New Awards for Fiscal Year 1989

Title of Program: Training Personnel for the Education of the Handicapped. CFDA No. 84.029

Purpose: To provide training and information to parents of children and youth with handicaps and to persons who work with parents of children and youth with handicaps to enable parents to participate more fully and effectively with professionals in meeting the educational needs of their children and youth.

Deadline for Intergovernmental Review Comments: March 9, 1989.

Applicable Regulations: (a) The Training Personnel for the Education of the Handicapped Program, 34 CFR Part 316, that are published in this issue of the **Federal Register**, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 79.

Priorities: The Secretary announces, pursuant to 34 CFR 75.105(c)(3), the following priority for fiscal year 1989. Projects supported under this program may provide training to degree, nondegree, certified, and noncertified individuals. The Secretary will give an absolute preference to applications that meet this priority.

Parent Organization Projects (84.029M)

This program supports grants to parent organizations for the purpose of providing training and information to parents of children and youth with handicaps and to persons who work with parents, to enable parents to participate more fully and effectively with professionals in meeting the educational needs of their children and youth.

Application Notice for Fiscal Year 1989

Title and CFDA	Deadline for transmittal of applications	Available funds [1]	Estimated range of awards	Estimated size of awards	Estimated number of awards	Project period in months
Parent Organization Projects (84.029M)	01/09/89	$4,000,000	$80,000–$100,000	$100,000	40	Up to 60.

[1] The funding levels are estimated projections of available Federal resources and may be subject to revision pending changes in Congressional appropriations.

Eligible Applicants: Private, nonprofit organizations.

For Applications or Information Contact: Norman D. Howe, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3072—M/S 2313), Washington, DC. 20202. Telephone: (202) 732–1068.

Program Authority: 20 U.S.C. 1431.

Dated: November 4, 1988.

(Catalog of Federal Domestic Assistance No. 84.029; Training Personnel for the Education of the Handicapped)

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 88–25914 Filed 11–9–88; 8:45 am]

BILLING CODE 4000–01–M

Invitation of Applications for New Awards for Fiscal Year 1989

Title of Program: Training Personnel for the Education of the Handicapped. CFDA No. 84.029

Purpose: To increase the quantity and improve the quality of personnel available to educate and provide early intervention services to infants, toddlers, children, and youth with handicaps.

Applicable Regulations: (a) The Training Personnel for the Education of the Handicapped Program, 34 CFR Part 318, that are published in this issue of the **Federal Register**, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 79, and 80.

Priorities: The Secretary announces, pursuant to 34 CFR 75.105(c)(3), the following priorities for fiscal year 1989. Projects supported under this program may provide training to degree, nondegree, certified, and noncertified personnel, except that doctoral and post-doctoral preparation may be supported only under the leadership, transition, and special projects priorities. The Secretary will give an absolute preference to applications that meet any of the priorities.

Preparation of Personnel for Careers in Special Education and Early Intervention (84.029B)

This priority supports projects under § 318.3 (b) and (c) that are designed to provide preservice training of personnel for careers in special education and early intervention, or supervisors of those personnel.

The priority includes the preparation of special teachers of infants, toddlers, children, and youth with handicaps, special education administrators, and supervisors, speech-language pathologists, audiologists, adaptive physical educators, vocational educators, and infant intervention specialists.

Preparation of Leadership Personnel (84.029D)

This priority supports projects under § 318.3 (b) and (c) that are designed to provide preservice doctoral and post-doctoral preparation of professional personnel such as administrators, supervisors, researchers, and teacher trainers.

Preparation of Personnel for Special Populations of Infants, Toddlers, Children, and Youth With Handicaps (84.029E)

This priority supports the preservice preparation of early intervention, special education, and related services personnel under § 318.3(b) and (c) who will serve special populations of infants, toddlers, children, and youth with handicaps who, because of special characteristics, require professional competencies in addition to those needed for other infants, toddlers, children, and youth with similar disabilities. Project personnel funded under this priority must define a specific special population, describe the additional competencies that are needed by professionals serving that populations, and describe how the project's training program will result in the attainment of those competencies.

Preparation of Related Services Personnel (84.029F)

This priority supports projects under § 318.3 (b) and (c) that are designed to

provide preservice preparation of individuals who provide developmental, corrective, and other supportive services that assist infants, toddlers, children, and youth with handicaps to benefit from special education.

These include paraprofessional personnel, therapeutic recreation specialists, health services providers, physical therapists, occupational therapists, and other related services personnel.

Preparation of Personnel for Transition of Handicapped Youth to Adult and Working Life (84.029G)

This priority supports projects under § 318.3 (b) and (c) that are designed to provide preservice preparation of individuals who assist youth with handicaps in their transition from school to adult roles. Personnel may be prepared to provide short-term transitional services, long-term structured employment services, or instruction in community and school settings with secondary school students.

Preparation of Personnel to Work in Rural Areas (84.029J)

This priority supports projects under § 318.3 (b) and (c) that are designed to provide preservice training of personnel who will serve infants, toddlers, children, and youth with handicaps in rural areas. Projects must also be designed to provide training to assist personnel to work with parents, teachers, and administrators in a rural environment.

Special Projects (84.029K)

This priority supports projects with preservice and inservice training activities specified in § 318.3(a). Project activities assisted under this priority include development, evaluation, and distribution of imaginative or innovative approaches to personnel preparation, development of materials to prepare personnel to educate or provide early intervention services to infants, toddlers, children, and youth with handicaps, and other projects of national significance for the preparation of personnel needed to serve infants, toddlers, children, and youth with handicaps.

Preparation of Personnel to Provide Early Intervention Services to Infants and Toddlers With Handicaps (84.029Q)

This priority supports projects under § 318.3 (b) and (c) that are designed to provide preservice preparation of individuals who serve infants and toddlers with handicaps, or those who are at high risk of being handicapped. Personnel may be prepared to provide short-term services or long-term services that extend into a child's preschool program.

Preparation of Personnel for Low-Incidence Handicapped Students (84.029A)

This priority supports training that focuses on the preparation of personnel to serve students with severe handicaps, including intense physical or mental problems, deaf-blindness, and other multiple handicaps; deaf; blind; serious emotional disturbance; and other health impairments, including autism and chronic or acute health problems. Special consideration will be given to preservice preparation of certified personnel in serious emotional disturbance programs east of the Mississippi River, and in other health impairment programs (including autism and chronic or acute health problems) nationwide.

APPLICATION NOTICES FOR FISCAL YEAR 1989

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds [1]	Estimated range of awards	Estimated size of awards	Estimated number of awards	Project period in months
Preparation of Personnel for Careers in Special Education and Early Intervention (84.029B).	01/09/89	03/09/89	$8,800,000	$60,000–$80,000	$80,000	110	Up to 60.
Preparation of Leadership Personnel (84.029D)	01/23/89	03/23/89	2,000,000	70,000–90,000	90,000	22	Do.
Preparation of Personnel for Special Populations of Infants, Toddlers, Children, and Youth with Handicaps (84.029E).	02/13/89	04/13/89	1,500,000	60,000–75,000	75,000	20	Do.
Preparation of Related Services Personnel (84.029F)	01/30/89	03/30/89	1,900,000	50,000–75,000	75,000	25	Do.
Preparation of Personnel for Transition of Handicapped Youth to Adult and Working Life (84.029G).	02/06/89	04/06/89	500,000	60,000–80,000	80,000	6	Do.
Preparation of Personnel to Work in Rural Areas (84.029J)	02/13/89	04/13/89	550,000	60,000–75,000	75,000	7	Do.
Special Projects (84.029K)	02/20/89	04/20/89	1,500,000	65,000–85,000	85,000	17	Do.
Preparation of Personnel to Provide Early Interventions Services to Infants and Toddlers with Handicaps (84.029Q).	02/06/89	04/06/89	1,800,000	60,000–75,000	75,000	24	Do.
Preparation of Personnel for Low-Incidence Handicapped Students (84.029A).	02/27/89	04/27/89	500,000	60,000–80,000	80,000	6	Do.

[1] The funding levels are estimated projections of available Federal resources and may be subject to revision pending changes in Congressional appropriations.

Eligible Applicants: Institutions of Higher Education, and other appropriate nonprofit private agencies under § 318.1(a); and Institutions of Higher Education, State agencies, and other appropriate nonprofit agencies under § 318.1(b)

For Applications or Information Contact: Norman D. Howe, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3072—M/S 2313), Washington, DC 20202. Telephone: (202) 723–1068.

Program authority: 20 U.S.C. 1431.

Dated: November 4, 1988.

(Catalog of Federal Domestic Assistance No. 84.029: Training Personnel for the Education of the Handicapped)

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 88–25915 Filed 11–9–88; 8:45 am]

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federal register

Thursday
November 10, 1988

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 47 and 52

Federal Acquisition Regulation (FAR); Commercial Bills of Lading Under Cost-Reimbursement Contracts Audit by GSA; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 47 and 52

Federal Acquisition Regulation (FAR); Commercial Bills of Lading (CBL's) Under Cost-Reimbursement Contracts Audit by GSA

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to FAR 47.104–4 and adding a clause at 52.247–65 to clarify standards for procedures governing Commercial Bills of Lading (CBL's) documentation, payment, and audit.

Comments: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 9, 1989, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 88–56 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule does not appear 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.). It is not feasible, however, to estimate the number of small entites to which this rule will apply because the number of small businesses which would participate in these types of acquisitions is unknown. Comments are invited.

B. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed rule does not contain any recordkeeping or information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq. 41 CFR 101–41 contains the primary regulatory requirement for submission of transportation documentation to GSA for audit.

List of Subjects in 48 CFR Parts 47 and 52

Government procurement.

Dated: November 3, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 47 and 52 be amended as set forth below:

1. The authority citation for Parts 47 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 47—TRANSPORTATION

2. Section 47.104–4 is amended by revising the section title and adding paragraph (c) to read as follows:

47.104–4 Contract clauses.

* * * * *

(c) The contracting officer shall insert the clause at 52.247–65, Submission of commercial freight bills to the General Services Administration for audit, in solicitations and contracts when a cost-reimbursement contract is contemplated and the contract or a first-tier cost-reimbursement subcontract thereunder will authorize reimbursement of transportation costs as a direct charge to the contract or subcontract.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.247–65 is added to read as follows:

52.247–65 Submission of commercial freight bills to the General Services Administration for audit.

As prescribed in 47.104–4(c), insert the following clause:

Submission of Commercial Freight Bills to the General Services Administration for Audit (Nov 1988)

(a) The Contractor shall submit to the General Services Administration (GSA), for audit, legible copies of all paid freight bills/invoices, commercial bills of lading (CBL's), and other supporting documents for transportation services on which the United States will assume freight charges that were paid (1) by the Contractor under a cost-reimbursement contract, and (2) by a first-tier subcontractor under a cost-reimbursement subcontract thereunder.

(b) The Contractor shall forward copies of paid freight bills/invoices, and CBL's as soon as possible following the end of the month, in one package to the General Services Administration, ATTN: FWAA/C, 18th & F Streets NW, Washington, DC 20405. The Contractor shall include the paid freight bills/invoices, CBL's, and supporting documents for first-tier subcontractors under a cost-reimbursement contract. If the inclusion of the paid freight bills/invoices, CBL's, and supporting documents for any subcontractor in the shipment is not practicable, the documents may be forwarded to GSA in a separate package.

(c) Any original transportation bills or other documents requested by GSA shall be forwarded promptly by the Contractor to GSA. The Contractor shall ensure that the name of the contracting agency is stamped or written on the face of the bill before sending it to GSA.

(End of clause)

[FR Doc. 88–26087 Filed 11–9–88; 8:45 am]

BILLING CODE 6820–61–M

federal register

Thursday
November 10, 1988

Part VII

Office of Management and Budget

Audits of Institutions of Higher Education and Other Nonprofit Organizations; Notice

OFFICE OF MANAGEMENT AND BUDGET

[Proposed Circular No. A-133]

Audits of Institutions of Higher Education and Other Nonprofit Organizations

AGENCY: Financial Management Division, OMB.

ACTION: Proposed Circular No. A-133 "Audits of Institutions of Higher Education and Other Nonprofit Organizations".

SUMMARY: This notice offers interested parties an opportunity to comment on a new circular, "Audits of Institutions of Higher Education and Other Nonprofit Organizations". The revision would supersede Attachment F subparagraph 2h of Circular A-110 "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations".

The change in audit policy arises from a commitment made by OMB during Congressional consideration of the Single Audit Act of 1984, Pub. L. 98-502. At that time Congress agreed to exclude most colleges and universities from coverage under the Act. OMB agreed to develop an audit policy for these organizations consistent with the provisions of the Act.

The revised audit policy will require an independent annual audit of the organization in accordance with generally accepted government auditing standards and the provisions of the Circular. The revised audit policy covers:

—Scope of audit,
—Internal control reviews,
—Compliance reviews,
—Relationship to other audit requirements,
—Federal cognizant agency responsibilities,
—Reporting illegal acts of irregularities,
—Audit reports,
—Audit resolution,
—Retention of audit workpapers and reports,
—Audit costs,
—Sanctions, and
—Auditor selection.

The audit provisions of Circular A-110 are being published separately from the uniform agency regulations replacing Circular A-110 for more effective administration of audit policy. If the audit requirements for recipients were published in the uniform rules a separate Circular would still be necessary for Federal audit responsibilities and fragment the overall audit approach. This proposed Circular is patterned after Circular A-128 "Audits of State and Local Governments," which has become familar to the audit and grantee community and is generally being implemented effectively. The proposed Circular helps tailor requirements to the recipient and generally avoids confusion.

All interested parties are encouraged to make their views known.

FOR FURTHER INFORMATION CONTACT: Palmer Marcantonio, Financial Systems and Policy Branch, Office of Management and Budget, Washington, DC 20503, 202-395-3993.

Comments should be received within 60 days of this notice. All comments should be submitted to the above individual.

Sincerely,

Gerald R. Riso,

Associate Director for Management.

[OMB Circular No. A-133, 1988]

To the Heads of Executive Departments and Establishments

Audits of Institutions of Higher Education and Other Nonprofit Institutions

1. *Purpose.* This Circular establishes audit requirements for institutions of higher education and other nonprofit institutions receiving Federal funds. It also defines Federal responsibilities for implementing and monitoring these requirements. The term "nonprofit institutions" used throughout the Circular includes institutions of higher education. The term does not include hospitals, or State and local governments and Indian tribes covered by Circular A-128 "Audits of State and Local Governments."

2. *Authority.* This Circular is issued under the authority of the Budget and Accounting Act of 1921 as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970 and Executive Order No. 11541.

3. *Supersession.* This Circular supersedes Attachment F, subparagraph 2h, of Circular A-110, "Uniform Administrative Requirements for Grants and other Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations."

4. *Policies.*

a. Nonprofit institutions that receive $100,000 or more a year in Federal funds shall have an audit made in accordance with this Circular.

b. Nonprofit institutions that receive Federal awards between $25,000 and $100,000 a year shall have an audit made in accordance with this Circular or have an audit made of each Federal award.

c. *Subrecipients.* All subrecipients of Federal financial assistance receiving more than $25,0000 in Federal awards are subject to those Federal audit requirements applicable to that particular subrecipient.

d. *Cognizant Agencies.*

(1) OMB will assign a Federal agency to each of the larger nonprofit institutions as the cognizant agency for monitoring audits, and overseeing the resolution of audit findings that affect the programs of more than one agency. Smaller nonprofit institutions not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them with the most funds.

(2) Federal cognizant agency assignments for carrying out the responsibilities in this section are set forth in a separate supplement. Government-owned, contractor-operated facilities at nonprofit institutions are not included in the cognizance assignments. These will remain the responsibility of the contracting agencies. The listed assignments cover all of the functions in this Circular unless otherwise indicated. The Office of Management and Budget will coordinate changes in agency assignments.

5. *Scope of Audit*

a. The audit shall be made by an independent auditor in accordance with Government Auditing Standards covering financial audits. The audit should be an organization-wide audit of the nonprofit institution. However, a coordinated audit approach which tailors the scope of the audit to individual circumstances may be worked out between the recipient and the cognizant agency or the agency providing the most funds to a recipient when a cognizant agency has not been assigned. Any agreements concerning coordinated audits reached between cognizant agencies and recipients should be cleared with other Federal agencies providing funds.

b. States and local governments may include public colleges and universities in audits performed in accordance with OMB Circular A-128 "Audits of State and Local Governments". However, such audits of these entities when made as part of the States A-128 audit should include the additional audit requirements in this Circular.

c. The auditor shall determine whether:

(1) the financial statements of the institution present fairly its financial position and the results of its financial

operations in accordance with generally accepted accounting principles;

(2) the institution has an internal accounting and other control structure to provide reasonable assurance that it is managing Federal awards in compliance with applicable laws and regulations; and

(3) the institution has complied with laws and regulations that may have material effect on its financial statements and on each major Federal award program.

6. *Applicability.* The provisions of this Circular apply to all Federal agencies responsible for administering programs that involve grants, contracts and other agreements with institutions of higher education and other nonprofit recipients. These principles, to the extent permitted by law, constitute guidance to be applied by agencies consistent with and within the discretion, conferred by the statutes governing agency action.

7. *Definitions.* For the purposes of this Circular the following definitions apply:

a. "Award" means financial assistance, and Federal cost type contracts used to buy services or goods for the use of the Federal Government. It includes awards received directly from the Federal agencies or indirectly through other grantees. It does not include procurement contracts under grants or subcontracts used to buy goods or services. Audits of such government contracts shall be covered by the terms and conditions of the contract.

b. "Cognizant agency" means the Federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in paragraph 10 of this Circular.

c. "Federal agency" has the same meaning as the term "agency" in section 551(1) of Title 5, United States Code.

d. "Financial assistance" means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals. It includes awards received directly from Federal agencies, or indirectly through other recipients.

e. "Generally accepted accounting principles" has the meaning specified in the generally accepted government auditing standards.

f. "Government Auditing Standards" means the *Standards For Audit of Government Organizations, Programs, Activities, and Functions,* developed by the Comptroller General, dated July 1988.

g. "Independent auditor" means:

(1) A State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or

(2) A public accountant who meets such independence standards.

h. "Internal control structure" means the plan of organization and methods and procedures adopted by management to ensure that:

(1) Resources use is consistent with laws, regulations, and policies;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data are obtained maintained, and fairly disclosed in reports.

i. "Major program" means an individual award or a number of awards in a category of Federal assistance or support on which the auditor will be required to express an opinion as to whether the major program is being administered in compliance with laws and regulations.

(1) Universities:

(a) Each of the following categories of Federal awards shall constitute a major program:

—Research and Development,

—Student Aid,

—Individual awards (not in the student aid or research and development category) for which Federal expenditures during the applicable year exceed the larger of 3 percent of the total Federal funds received (other than research and development and student aid) or $100,000.

(2) Other nonprofit organizations:

A major program for nonprofit organizations means any program for which Federal expenditures during the applicable year exceed the larger of $100,000 or 3 percent of such total expenditures.

j. "Subrecipient" means any person or government department, agency, establishment or nonprofit organization that receives Federal financial assistance to carry out the program through a primary recipient, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of Federal awards.

8. *Frequency of audit.* Audits shall be made annually unless the recipient is audited as part of the State or local government that have previously made other arrangements with the Federal Government.

9. *Internal control and compliance reviews.* The independent auditor shall determine and report on whether the recipient has internal control systems to provide reasonable assurance that it is managing Federal awards in compliance with applicable laws, regulations and contract terms.

a. *Internal control review.* In order to provide this assurance on internal controls the auditor must make a study and evaluation of internal control systems used in administering Federal awards. The study and evaluation must be made whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the recipient's system for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

b. *Compliance review.* The auditor should determine whether the recipient has complied with laws and regulations that may have a material effect on each major Federal program.

(1) In order to determine which major programs are to be tested for compliance, recipients shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies, through other State and local governments or other primary recipients. To assist recipients in identifying Federal funds, Federal agencies and primary recipients should provide the Catalog of Federal Domestic Assistance (CFDA) numbers to the institutions when making the awards.

(2) The review must include the selection and testing of a representative number of charges from each major Federal program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program, the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews or system reviews required by Federal Acquisition Regulation); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(a) In making the test of transactions, the auditor shall determine whether:

—The amounts reported as expenditures were for allowable services, and

—The records show that those who received services or benefits were eligible to receive them.

(b) In addition to transaction testing, the auditor shall determine whether:

—Matching requirements, levels of effort and earmarking limitations were met,

—Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and

—Amounts claimed or used for matching were determined in accordance with (1) OMB Circular A–21 "Cost principles for educational institutions"; (2) Attachment F of Circular A–110 "Uniform Requirements for Grants and Agreements with Institutions of Higher Education and other Nonprofit Organizations"; (3) Circular A–122 "Cost principles for nonprofit organizations"; and (4) FAR Subpart 31 cost principles.

(c) The principle compliance requirements of the largest Federal programs may be ascertained by referring to the *"Compliance Supplement for Single Audits of Educational Institutions and Other Nonprofit Organizations"*, and the *Compliance Supplement for Single Audits of State and Local Governments,"* issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to awards that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

10. *Subrecipients.* Recipients that receive Federal awards and provide $25,000 or more of it in a fiscal year to a subrecipient shall:

a. Determine whether the subrecipients have met the audit requirements of this Circular.

b. Determine whether the subrecipient spent Federal funds in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with OMB Circulars, or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

c. Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

d. Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

e. Require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this Circular.

11. *Relation to other audit requirements.* An audit made in accordance with this Circular shall be in lieu of any financial audits required under individual Federal awards. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsbilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits or reviews which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audits or reviews shall be planned and carried out in such a way as to avoid duplication.

a. The provisions of this Circular do not limit the authority of Federal agencies to make, or contract for audits and evaluations of Federal awards, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.

b. The provisions of this Circular do not authorize any institution or subrecipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits, evaluations or reviews.

c. A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to this Circular shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits or reviews include economy and efficiency audits, program results audits, and program evaluations.

12. *Cognizant agency responsibilities.* Cognizant Federal agencies will be assigned to oversee the implementation of this Circular.

a. The Office of Management and Budget will assign cognizant agencies for larger institutions. Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller institutions not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

b. A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this Circular.

(2) Provide technical advice and liaison to institutions and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits or reviews made by or for Federal agencies that are in addition to the audits made pursuant to this Circular; so that the additional audits or reviews build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

13. *Illegal acts or irregularities.* If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also paragraph 12c below for the auditor's reporting responsibilities.) The auditor shall also promptly report to proper Federal officials, including the audit officials and those entities of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.

14. *Audit Reports.* Audit reports must be prepared at the completion of the audit.

a. The audit report shall state that the audit was made in accordance with the provisions of this Circular. The report shall be made up of at least:

(1) The auditor's report on the financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance. For recipients receiving 25 grants or more, the schedule of Federal assistance should contain changes in Federal award balances showing the total expenditures for federally assisted programs by funding agency and a schedule of changes in Federal award balances and a schedule of disbursements and expenditures for each student financial assistance program of the Department of Education. For recipients receiving less than 25 awards the schedule shall show the total expenditures for each award and program as identified in the *Catalog of Federal Domestic Assistance.* Federal programs that have not been assigned a catalog number shall be identified under the caption "other Federal assistance."

(2) The auditor's report on the study and evaluation of internal control structure. The report must identify the organization's significant internal accounting controls, or control structure including those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, the material weaknesses identified as a result of the evaluation and the scope of the auditor's work in obtaining an understanding of the internal control structure in assessing the control risk.

3. The auditor's report on compliance containing:

—An opinion as to whether major Federal programs were being administered in compliance with laws and regulations.

—A statement of positive assurance with respect to those items tested for compliance relative to the financial statements, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

—Negative assurance on those items not tested;

—A summary of all instances of noncompliance including:

• The size of the universe in number of items and dollars.

• The number and dollar amount of transactions tested by the auditors.

• The number and corresponding dollar award in instances of noncompliance.

—An identification of total amounts questioned, if any, for each Federal award, as a result of noncompliance;

b. The three parts of the audit report may be bound into a single report, or presented at the same time or separate documents.

c. All fraud abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, may be covered in a separate written report submitted in accordance with paragraph 14e.

d. In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

e. In accordance with Government Auditing Standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the auditor shall submit copies of the reports to each Federal department or agency that provided Federal awards to the recipient. Subrecipient auditors shall submit copies to recipients that provided them Federal awards. The report shall be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period unless a longer period is agreed to with the cognizant agency.

f. Recipients of more than $100,000 in Federal awards shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file.

g. Recipients shall keep audit reports on file for three years from their issuance.

15. *Audit Resolution.* As provided in paragraph 12, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

16. *Audit workpapers and reports.* Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

17. *Audit Costs.* The cost of audits made in accordance with the provisions of this Circular are allowable charges to Federal awards.

a. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provisions of Circular A–21, "Cost principles for Universities" or Circular A–122 "Cost principles for nonprofit organizations," and FAR Subpart 31.

b. Generally, the percentage of costs charged to Federal awards for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost.

18. *Sanctions.* No cost may be charged to Federal awards for audits that are not made in accordance with this Circular. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropriate sanctions including:

—Withholding a percentage of awards until the audit is completed satisfactorily;

—Withholding or disallowing overhead costs; or

—Suspending Federal awards until the audit is made.

19. *Auditor Selection.* In arranging for audit services institutions shall follow the procurement standards prescribed by Circular A–110, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations."

20. *Small and Minority Audit Firms.* Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Circular. Recipients of Federal awards shall take the following steps to further this goal:

a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

b. Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

d. Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

e. Encourage contracting with consortiums of small audit firms as described in paragraph (a) above when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

f. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

21. *Effective date.* The provisions of this Circular are effective upon publication and shall apply to audits of nonprofit institutions for fiscal years that begin after January 1, 1989. Earlier implementation is encouraged. However, until this Circular is implemented the audit provisions of Attachment F to Circular A–110 shall continue to be observed.

22. *Policy Review (Sunset).* This Circular will have a policy review three years from the date of issuance.

23. *Inquiries.* Further information concerning this Circular may be obtained by contacting the Financial Management Division, Office of Management and Budget, Washington, DC 20503, telephone (202) 395–3993.

[FR Doc. 88–25994 Filed 11–9–88; 8:45 am]
BILLING CODE 3110–01–M

Federal Register

Thursday
November 10, 1988

Part VIII

The President

Notice of November 8, 1988—
Continuation of Iran Emergency

Federal Register
Vol. 53, No. 218
Thursday, November 10, 1988

Presidential Documents

Title 3—

The President

Notice of November 8, 1988

Continuation of Iran Emergency

On November 14, 1979, by Executive Order No. 12170, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Notices of the continuation of this national emergency have been transmitted annually by the President to the Congress and the **Federal Register**, most recently on November 10, 1987. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 1988. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iran. This shall be published in the **Federal Register** and transmitted to the Congress.

Ronald Reagan

THE WHITE HOUSE,
November 8, 1988.

[FR Doc. 88-26301
Filed 11-9-88; 11:58 am]
Billing code 3195-01-M

Editorial note: For the text of the President's message to the Congress, dated Nov. 8, on the continuation of the Iran emergency, see the *Weekly Compilation of Presidential Documents* (vol. 24, no. 45).

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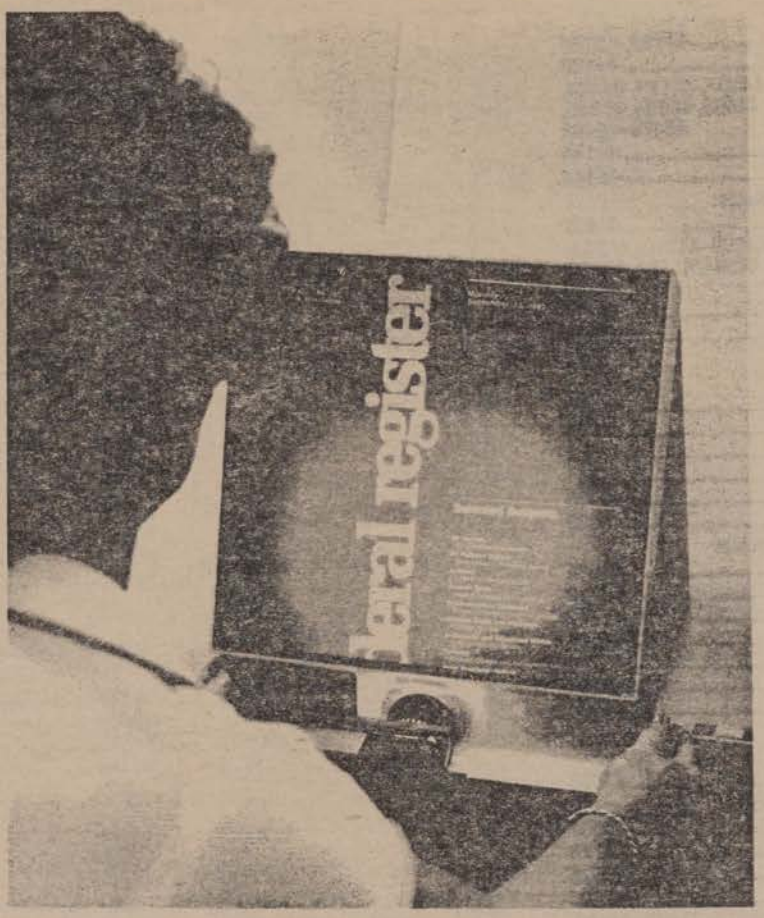

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