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Reader Aids
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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

Presidential Determination No. 89–6 of October 31, 1988

Determination To Authorize the Furnishing of Immediate Military Assistance to Jamaica

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 506(a) of the Foreign Assistance Act of 1961, as amended ("the Act"), 22 U.S.C. 2318(a), I hereby determine that:

1) an unforeseen emergency exists which requires immediate military assistance to Jamaica; and

2) the aforementioned emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except Section 506(a) of the Act.

Therefore, I hereby authorize the furnishing of up to $10 million in defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training to Jamaica under the provisions of Chapters 2 and 5 of Part II of the Act.

You are authorized and directed to report this determination to the Congress immediately and publish it in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, October 31, 1988.

[FR Doc. 88-26753
Filed 11-15-88; 4:12 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.
ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary to reflect the assignment of responsibility for the Drought and Disaster Guaranteed Loan program under the Disaster Assistance Act of 1988 to the Under Secretary for Small Community and Rural Development and the Administrator of Farmers Home Administration.

EFFECTIVE DATE: November 17, 1988.

FOR FURTHER INFORMATION CONTACT: Lawrence Bowles, Loan Specialist, Farmers Home Administration, USDA, Washington, DC 20250, telephone (202) 475–3811.

SUPPLEMENTARY INFORMATION: Departmental responsibility for guarantees of loans to rural business entities to further rural development and to save or create jobs in rural areas has been located in the Farmers Home Administration (FmHA) and its Business and Industrial (B&I) Loan Division. Sec. 331 of the Disaster Assistance Act of 1988 (Pub. L. 100–387) provides the Secretary new authority to guarantee such loans for disaster assistance purposes. Authority to administer this new loan guarantee authority is being delegated to the Under Secretary for Small Community and Rural Development, and further redelegated to the Administrator of Farmers Home Administration.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rule making and opportunity for comments are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency managment, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegation (Government agencies).

Accordingly, Part 2, Title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

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

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

2. Section 2.23 is amended by adding a new paragraph (a)(18) to read as follows:

§ 2.23 Delegations of authority to the Under Secretary for Small Community and Rural Development.

* * * * *

(a) * * *

(18) Administer the Drought and Disaster Guaranteed Loan program under section 331 of the Disaster Assistance Act of 1988 (Pub. L. 100–387).

* * * * *

Subpart I—Delegations of Authority by the Under Secretary for Small Community and Rural Development

3. Section 2.70 is amended by adding new paragraph (a)(33) to read as follows:

§ 2.70 Administrator, Farmers Home Administration.

(a) *Delegations.* * * *

(33) Administer the Drought and Disaster Guaranteed Loan program under section 331 of the Disaster Assistance Act of 1988 (Pub. L. 100–387).

* * * * *

Dated: November 9, 1988.

For Subpart C.

Peter C. Myers,
Acting Secretary of Agriculture.

For Subpart I.

Dated: November 9, 1988.

Roland R. Vautour,
Under Secretary for Small Community and Rural Development.

[FR Doc. 88–26569 Filed 11–16–88; 8:45 am]
BILLING CODE 3410–07–M

Food Safety and Inspection Service

9 CFR Parts 307 and 308

[Docket No. 82–008F]

Safety and Sanitation Requirements for Electrical Stimulating Equipment

AGENCY: Food Safety and Inspection Service, USDA.
ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat inspection regulations to specify safety and sanitation requirements for electrical stimulating (EST) equipment. Federally inspected establishments may use EST equipment to accelerate rigor mortis in slaughtered meat animals (cattle, sheep, swine, goats, horses, mules or other equines). The safety requirements will protect inspection personnel working near that equipment from the hazard of potentially lethal electric shock or other injury. The sanitation requirements will prevent adulteration of the carcasses.

EFFECTIVE DATE: December 19, 1988.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Wesson, Director, Facilities, Equipment and Sanitation Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–5627.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been designated a "non-major" rule E.O. 12291. It will not result in an annual effect on the economy of $100 million or more. There

will be no major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It will not have a significant effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule makes existing guidelines on the safe use and appropriate sanitation of EST equipment mandatory. Any resulting costs would be voluntarily assumed by individual establishments which choose to use EST equipment.

Effect on Small Entities

The Administrator has made a determination that this final rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601 *et seq.*) because it simply serves to codify guidelines currently in effect for the safe and sanitary use of all EST equipment.

There are approximately 200 EST units currently in operation. The Food Safety and Inspection Service (FSIS) has concluded that all EST equipment, even the more recent lower voltage EST equipment, presents an unacceptable hazard unless its use is regulated. Therefore, this rule applies to all EST equipment. FSIS's position on EST equipment has evolved from consultations with the Occupational Safety and Health Administration OSHA), National Electric Code (NEC) members and the National Aeronautics and Space Administration (NASA).

FSIS has determined that barriers, warning devices and signs for EST equipment not already in voluntary compliance with FSIS guidelines are necessary to provide Federal inspectors adequate safety. Although FSIS has no record of any injuries to Federal inspectors since EST equipment was first found acceptable for use in 1979, FSIS has concluded that the potential hazards to inspectors justify preventive regulatory action.

To meet the safety requirements, stimulator manufacturers have estimated costs of a maximum of $5000 and a minimum of $200. The estimated costs would include any necessary equipment modifications, and purchase and installation of the safety devices and signs. Costs could be less and will vary for each establishment and would depend on the type of equipment and safety features currently in place.

Background

On April 16, 1987, FSIS published a proposed rule (52 FR 12422) to amend the Federal meat inspection regulations to specify safety and sanitation requirements for EST equipment. The proposal addressed both safety and sanitation requirements when EST equipment is used in federally inspected establishments.

FSIS reviews the equipment used in official establishments to ensure its use will not render meat and meat food products adulterated within the meaning of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601(m)) and does not pose a safety hazard to Department employees. This rule is consistent with existing guidelines used to review this equipment and its operation.[1]

Electrical stimulating equipment consists of two separate pieces—the control system and the applicator. The EST control system contains the circuitry to generate pulsed DC or AC voltage for stimulating the livestock carcass. The applicator delivers the voltage to the carcass. The voltage can be applied by inserting a probe that penetrates the carcass or is inserted in the rectum, placing a clamp in the nose, a carcass rub-bar, a conveyor with energized surfaces traveling with the carcass or any other method approved by the Administrator. This pulsating current hastens certain chemical reactions in the muscle tissues producing a stiffening of the muscles known as rigor mortis. If meat is chilled or frozen before the onset of rigor mortis, a toughening of the muscle tissue known as "cold shortening" may occur. "Cold shortening" may not be important if the meat is to be ground, but it would be economically important if the meat is to be used as steaks, chops or roasts. Without electrical stimulation, rigor mortis may not occur for eight hours or more after death. With electrical stimulation, the time may be as short as one hour.

Another benefit of the use of EST equipment is that blood is removed more quickly and completely from the animal due to the strong muscle contractions which occur when the carcass is stimulated. FSIS has recently learned that some pork producers are using EST equipment for this purpose. Since EST equipment for blood removal is used in the same manner and under the same conditions as that used to enhance meat quality, FSIS has determined that this rule applies to EST equipment used to accelerate rigor mortis for the purpose of enhancing meat quality and to EST equipment used for the purpose of facilitating blood removal.

Other claims[2] have been made for the application of EST that it makes the muscle tissue release natural proteolytic enzymes which chemically tenderize the meat; that it tenderizes meat by breaking muscle bonds; that it reduces shrinkage; accelerates the visibility by marbling; prevents a type of discoloration known as "heat ring;" improves the color of the meat; and increases the chill rate.

Safety Considerations in the Installation and Use of EST Equipment

Fifteen EST systems made by six manufacturers have been found acceptable for use in official establishments. There are two general types of systems: (1) Manually operated for use in plants with lower slaughter rates, and (2) automatic for stimulating more than one carcass at a time up to approximately 400 per hour. Both types of systems apply pulses of direct or alternating current to the carcass through electrodes. Stimulation of each carcass may last from 10 seconds to 3 minutes.

To date, the approved voltage varies from 10 to 600. The high voltage electrical stimulators operate at a voltage between 500 and 600, a potentially lethal electrical shock. Concern about this danger resulted in the development of later models that operate below 50 volts. Acceptance by FSIS of the use of below 50 volt EST equipment in establishments without mandating the safety precautions specified in this rule was based in part on earlier discussions with electrical safety personnel in OSHA and the interpretation of provisions in the NEC. The NEC is the nationally accepted minimum electrical construction and safety standard. At the time, the use of below 50 volt EST equipment did not appear to pose a significant threat to human safety that required shock hazard protection. However, Underwriters Laboratory, a recognized national standards organization, has cited research stating that 0.5 percent of the population would be unable to release from contact (handgrip) with a surface emitting 10.5 volts alternating current, and that as the electrical voltage increases, a progressively larger segment of the population is unable to release from such contact. The wet

[1] Written guidelines are available from the Facilities, Equipment and Sanitation Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

[2] Articles are available for viewing at the Policy Office, Room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

conditions prevalent in the slaughterhouse environment increase the likelihood and seriousness of electrical shock.

In addition, NASA, after conducting extensive testing of the effect of voltage on bodily functions of astronauts in space, determined that exposure to very low voltage levels can be hazardous to humans. After discussing this information with NEC specialists, FSIS has determined that exposure to any voltage may be unsafe and exposure to any unprotected stimulating voltage should not be permitted.

This rule provides the safety requirements needed to eliminate or minimize the possibility of electrical shock to Federal inspectors. The safety provisions are designed to protect Federal inspectors who are exposed to EST equipment from potentially lethal electrical shock and from being struck by a carcass while it is undergoing the violent contractions caused by the electrical current. The safety provisions are basic electrical safety provisions adapted to the slaughterhouse environment. The circuit grounding and electrical source provisions were developed with the assistance and concurrence of some manufacturers of EST equipment and are consistent with the NEC.

Consistency with OSHA Requirements

Under the FMIA (21 U.S.C. 601 *et seq.*) and the regulations, the Administrator must provide a safe workplace for Federal inspectors. To avoid conflicting or inconsistent regulatory requirements, FSIS consulted with officials of OSHA to develop appropriate safety procedures. The Director of Federal Compliance and State Programs, OSHA, has concurred in the safety procedures set forth in this rule. A directive reflecting these procedures has been issued by OSHA and forwarded to all national, regional, and area OSHA offices. However, this rule will not preclude any rulemaking that OSHA may find necessary.

Equipment Utilization Area

Use of electrical stimulating equipment must occur in an area that will prevent persons from contacting an energized surface. This area may be enclosed by either physical, sound or light barriers. If the area is surrounded by physical barriers, the barriers must be either electrically grounded or they must be made of materials that do not conduct electricity. The interior of the stimulating area must be visible from the start switch so that the operator can be assured before the equipment is started that there is no thing or person present that should not be there. If sound or light barriers are used to completely or partially form an enclosure, they must automatically shut off EST equipment when the sensor signals are interrupted or broken.

Warning Device and Sign Provisions

At each opening to the equipment utlization area through which a person would normally enter, the following warning devices, designed to attract attention and to alert persons to an electrical hazard or dangerous situation, must be installed.

1. Flashing Red Light—Installation and use of a red light that flashes a distinct warning during the equipment operating cycle.

2. Warning Signs—Warning signs reading "Danger Electrical Hazard" for posting with use of low voltage (under 50 volts) equipment and "Danger High Voltage" for posting with use of high voltage (over 50 volts) equipment. OSHA requires that warning signs follow American National Standards Institute (ANSI) standard Z53.1-Color Code which prescribe the wording, color and size of lettering needed to attract attention to the sign's message. These signs must be posted conspicuously at eye level, between 4½–5½ feet high, to have the maximum warning effect.

3. Optional Warning Horn or Bell—A warning horn or bell may be installed in or near the stimulating area. Installation and use of a warning horn or bell is optional, but if used, the signal must be loud enough to be heard distinctly above all background noises. Each establishment has its own unique noise level because of such factors as differences in equipment, numbers of animals slaughtered and number of employees. Therefore, the Agency has determined that establishing a specific decible level would be impractical. To provide an adequate warning, the horn or bell signal must sound for at least one second before each manual stimulation or before the carcass chain is started in an automatic system.

Emergency Disconnect Provision

Emergency Stop Button—By their nature, emergency stop buttons are noticeable and can be easily operated in case of equipment malfunction or sudden hazard.

Additional Provisions for Reducing Shock Hazard

To minimize the possibility of electrical shock to personnel, the length and location of electric wires attached to a clamp or probe must reduce the likelihood of contact between the probe or clamp and an electrical ground and must not extend outside the enclosure.

When EST equipment is not in use, stimulating probes or clamps must be disinfected and stored in a sanitary insulated container. Probes or clamps may be disinfected by rinsing in 180°F. water or by applying a chemical agent such as chlorine. Storage of the probes or clamps in an insulated container will prevent any accidental contact with the stimulating surface and will keep the probes or clamps sanitary.

Sanitary Considerations in the Installation and Use of EST Equipment

EST may be applied at any of three stages during the slaughtering operation: (1) Before hide removal (after or during bleeding, but before any other cuts have been made in the hide, except stick wound and foot removal), (2) after hide removal and before evisceration, or (3) after removal of both the hide and viscera.

When electrical stimulation is used before hide removal, the electrodes should be designed so that the hide is not penetrated. Hide penetration will force surface contamination from the hide into tissue. If hide penetration occurs, the penetrated tissue must be trimmed during the dressing operation. Explusion of feces, ingesta, and/or urine before hide removal will not cause contamination because the hide protects the edible parts of the carcass.

In the proposal, it was stated that if EST is used after hide removal, the equipment's carcass contact surfaces (electrodes) would have to be disinfected after each stimulation to prevent the transfer of possible contaminants to the next carcass. The regulation has been revised to clarify that this provision only applies when EST is used to stimulate uninspected carcasses. If carcasses are stimulated after they have been inspected and passed, the carcass contact surfaces do not need to be disinfected between stimulation of inspected carcasses. However, the carcass contact surfaces must be maintained in a clean and sanitary manner. FSIS policy is that if the carcass is inspected and passed, then the carcass has been deemed wholesome and, therefore, disease and other contamination would not be present and would not be transferred to the next carcass.

EST voltage causes strong muscle contractions in the carcass. For those carcasses that have not been eviscerated, contraction of the abdominal muscles may force the expulsion of feces from the rectum and/or urine from the bladder and/or

contents from the stomach which will contaminate edible tissue. There are several alternatives to prevent contamination: (1) Leave the sphincter muscles intact so they will contract during stimulation and provide a natural barrier; (2) cut the rectum and the urethra free from surrounding tissue and securely tie them off to prevent leakage; (3) partially open the mid-line and/or saw the brisket to reduce pressure on the visceral organs; or (4) use any other pressure-relieving or discharge-restricting alternatives that are acceptable to the Administrator. Alternatives should be presented in writing, through the inspector-in-charge, to the Program for approval.

Some early EST equipment was used on partially skinned carcasses. This proved to be insanitary. Dirt from the flopping hide, caused by muscle contractions when the carcass is stimulated, contaminates the exposed surfaces of the carcass. Consequently, EST equipment may not be used on partially skinned carcasses.

Summary of Comments

FSIS received three comments in response to the proposal (52 FR 12422): two from industry members and one from a trade association. All of the commenters supported the general intent of the proposed rule, citing support for requirements that would assure that electrical stimulating equipment is safely operated in a manner that will prevent adulteration of the carcass. However, the three commenters raised the issue of whether the rule would apply to EST equipment used for purposes other than tenderizing, and one commenter raised the issue of FSIS duplicating OSHA's requirements. The following are the issues raised by the commenters and FSIS's response to each.

Comment: The three commenters asked whether the proposed requirements would apply to electrical equipment/devices used for purposes other than tenderizing the carcass. This type of equipment is also used in the industry to stun and/or slaughter animals, to accelerate the bleeding process and to assist in the removal of hides. The commenters felt that the proposal should be limited to those electrical devices used to enhance meat quality.

Response: These safety and sanitation requirements are intended to apply only to electrical equipment used to stimulate the carcass for the purpose of accelerating rigor mortis or for the purpose of facilitating blood removal. The final rule has been revised to clearly state that § 307.7 does not apply to electrical equipment used to stun and/or slaughter animals or to facilitate hide removal.

Comment: One of the commenters stated that safety standards are the responsibility of OSHA, whose mission is to establish industry-wide standards for safety in the workplace to protect the safety of workers. The commenter felt that since they were required to meet current OSHA standards, any attempt by FSIS to separately regulate safety would be duplicative and would contribute to confusion and inconsistent application of safety requirements. The commenter also stated that if OSHA's standards were inadequate, that Agency should amend current provisions. This commenter did feel that FSIS should establish any sanitation requirements deemed necessary.

Response: OSHA has jurisdiction over workplaces, both private and public. However, heads of Federal departments are also responsible for providing a safe working environment for their own employees just as private sector employers are responsible for the safety of their employees. The Secretary of Agriculture has not only express responsibilities to provide a safe workplace under the Occupational Safety and Health Act, he also has the authority to establish or supplement safety standards not specifically addressed by OSHA, if deemed necessary.

Therefore, FSIS, in cooperation with OSHA, has taken the lead in developing and implementing regulations concerning the safe and sanitary operation of EST equipment because this equipment is is already subject to FSIS review—indeed it is unique to the meat industry—and because of the hazard it presents to Federal inspectors working in establishments with such equipment. Special regulatory provisions for use of this equipment are reasonable under these circumstances. The Agency's purpose in consulting with OSHA was to assure that its requirements would not conflict with or duplicate OSHA requirements.

Final Rule

For the reasons discussed in the preamble, FSIS is amending Parts 307 and 308 of the Federal meat inspection regulations (9 CFR Parts 307 and 308), by adding two new sections, §§ 307.7 and 308.16, to the current regulations. These new sections provide safety and sanitation requirements for uses of electrical stimulating equipment.

List of Subjects

9 CFR Part 307

Meat inspection, Equipment, Official establishments.

9 CFR Part 308

Meat inspection, Equipment, Official establishment, Sanitation.

PART 307—FACILITIES FOR INSPECTION

1. The authority citation for Part 307 continues to read as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1264, as amended; 21 U.S.C. 621; 62 Stat. 334; 21 U.S.C. 695.

2. Part 307 is amended by adding a new § 307.7 to read as follows:

§ 307.7 Safety requirements for electrical stimulating (EST) equipment.

(a) *General.* Electrical stimulating (EST) equipment is equipment that provides electric shock treatment to carcasses for the purpose of accelerating rigor mortis of facilitating blood removal. These provisions do not apply to electrical equipment used to stun and/or slaughter animals or to facilitate hide removal. Electrical stimulating equipment consists of two separate pieces—the control system and the applicator. The EST control system contains the circuitry to generate pulsed DC or AC voltage for stimulation and is separate from the equipment used to apply the voltage to the carcass. The voltage is applied by inserting a probe that penetrates the carcass or is inserted in the rectum, placing a clamp in the nose, a carcass rub-bar, a conveyor with energized surfaces traveling with the carcass, or any other method found to be acceptable by the Administrator. The Administrator will evaluate EST equipment to determine its acceptability for its proposed use before it is installed in an official establishment as set forth in § 308.5 of this subchapter.

(b) *Safety requirements*—(1) *Circuits, grounding.* Either a bonded grounding conductor shall lead from each section of the carcass rail within the stimulating enclosure to the service ground, or the secondary voltage (stimulating circuit) shall be insulated from the service ground. If the stimulating section of the carcass rail and carcass drive mechanisms are insulated from the service ground then the stimulating rail or the return path shall be electrically bonded to the transformer secondary to isolate the stimulation voltage.

(2) *Enclosure.* Electrical stimulation shall occur in an area that will prevent persons from contacting an energized surface. If the area is surrounded by physical barriers, the enclosure shall be either electrically grounded or it shall be made of materials that do not conduct

electricity. The interior of the stimulating area shall be visible from the start switch so the operator can be assured that there is no person, equipment or material present that should not be there prior to starting the stimulating sequence. If light or sound beam sensors form the enclosure, the stimulating equipment shall be automatically shut off when the sensor signals are broken.

(3) *Mandatory Warning Devices and Signals.* The following warning devices or signals shall be installed at each opening to the stimulating area through which a person would normally enter:

(i) A red light that flashes distinctly during the operating cycle of the stimulating equipment.

(ii) An ANSI Z53.1-Color Code sign reading (a) "Danger Electrical Hazard" for stimulating voltage below 50 or (b) "Danger High Voltage" for stimulating voltage above 50.

(iii) An emergency stop button.

(4) *Optional Warning Device—Horn or Bell.* If a warning horn or bell is installed, the signal shall be audible above background noises in the vicinity, and it shall sound for at least 1 second before each manual stimulation or before the carcass chain is started in an automatic system.

(c) Operation—

(1) *Training.* Only persons who have received safety instruction by the equipment manufacturer or designee may operate electrical stimulating equipment.

(2) *Cleaning and Maintenance.* To prevent an electrical shock to personnel, the electricity supplied to the stimulating surfaces shall be locked-off when cleaning, mechanical inspection, maintenance or testing are performed.

(3) *Water.* To prevent an electrical shock, personnel shall not spray streams of water on energized carcasses or on energized stimulating surfaces.

(d) Special provisions for manually operated equipment.

(1) Stimulating probes or clamps shall be stored in a sanitary container which is insulated with a material approved by the Administrator.[1]

(2) The electric wires attached to a clamp or probe shall not allow for contact between the probe or clamp and an electrical ground and shall not extend outside the enclosure.

[1] A list of approved insulation materials is available upon request from the Facilities, Equipment and Sanitation Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

PART 308—SANITATION

3. The authority citation for Part 308 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903 as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

4. Part 308 is amended by adding a new § 308.16 to read as follows:

§ 308.16 Sanitation requirements for electrical stimulating (EST) equipment.

(a) *Hide-on stimulation.* Automatic and manually operated equipment may be used to apply electrical stimualtion to the hide-on surface of slaughtered carcasses provided no opening cuts other than the stick wound or foot removal have been made in the carcass. If the hide is penetrated by electrodes, the penetrated tissue shall be trimmed. Disinfection of electrodes between each hide-on carcass stimulation is not necessary.

(b) *Hide-off stimulation.* (1) Automatic or manually operated equipment may be used to apply electrical stimulation to carcasses after complete hide removal. Partially skinned carcasses shall not be stimulated.

(2) If stimulation is applied before the carcass has been inspected, the carcass contact surfaces of the equipment shall be disinfected with a disinfectant approved by the Administrator [1] before stimulation of the next carcass. In the event that carcass contact surfaces of the equipment cannot be cleaned and disinfected between carcass stimulations, those surfaces shall be immediately removed from contact with the exposed carcass and cleaned and disinfected before carcass contact is resumed.

(3) If stimulation is applied after the carcass has been inspected, carcass contact surfaces of the equipment need not be disinfected with a disinfectant approved by the Administrator before stimulation of the next carcass. Carcass contact surfaces shall be maintained in a clean and sanitary condition.

(c) *Preventing product contamination.* Carcass contamination of edible tissue by stomach contents, feces and/or urine is unacceptable. To prevent such occurrences, any of the following optional procedures may be used before stimulation to prevent this contamination:

(1) Leave the sphincter muscles intact;

[1] A list of approved disinfectants is available upon request from the Facilities, Equipment and Sanitation Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

(2) Cut the rectum and the urethra free from surrounding tissue and securely tie each off;

(3) Partially open the mid-line and/or saw the brisket to reduce pressure on the visceral organs; or

(4) Any other pressure-relieving or discharge-restricting alternative acceptable to the Administrator. Alternatives should be presented in writing, through the inspector-in-charge, to the Program for approval.

(d) *Cleaning.* All equipment must be thoroughly cleaned at least daily.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 88-26608 Filed 11-16-88; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-172-AD; Amdt. 39-6071]

Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, -50, and C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-9-10, -20, -30, -40, -50, and C-9 series airplanes, which requires eddy current inspections for skin and longeron cracks. This amendment is prompted by reports of skin and longeron cracks in the upper fuselage over the wing. This condition, if not corrected, could result in degradation of the structural integrity of the fuselage and rapid decompression of the airplane.

EFFECTIVE DATE: December 8, 1988.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglass Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publication and Training, C1-750 (54-60). This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O'Neil, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, 3229

East Spring Street, Long Beach, California 90808; telephone (213) 988-5320.

SUPPLEMENTARY INFORMATION: On May 19, 1987, the FAA issued AD 87-14-07, Amendment 39-5630 (52 FR 25589; July 8, 1988) to require supplemental structural inspections of principal structural elements as defined in the Supplemental Inspection Document (SID) for certain McDonnell Douglas Model DC-9-30 series airplanes. During these supplemental structural inspections conducted in accordance with AD 87-14-07, an operator found skin cracks at 4 locations near longeron 1 at overwing stations on a Model DC-9-30 series airplane that had accumulated a total of approximately 69,000 landings. On another airplane with 65,000 landings, cracked skin fasteners were noted, and upon further inspection, 14 longeron cracks were found. Subsequent inspections have revealed skin cracks on 4 airplanes and longeron cracks on 23 airplanes. Preliminary investigation has revealed that the cracks are attributed to fatigue.

This condition, if not corrected, could degrade the structural integrity of the fuselage and lead to possible rapid decompression.

The FAA has reviewed and approved McDonnell Douglas DC-9 Alert Service Bulletin A53-230, dated November 2, 1988, which describes the areas to be inspected, methods of inspection, and repair instructions.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive external eddy current inspections for cracks in the fuselage skin and longerons, and repair, if necessary, in accordance with the McDonnell Douglas service bulletin previously mentioned.

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

Based on the reports of cracking described above, the FAA has issued a separate rulemaking action, Docket 88-NM-178-AD, which proposes to require repetitive aided visual inspections of the longerons in the area of the upper fuselage over the wing. However, the proposed initial compliance time for those inspections is sufficient so as to afford the public an opportunity to comment on the proposed rule.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further detemined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-9-10, -20, -30, -40, -50, and C-9 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished. To prevent fatigue cracking and failure of fuselage skin and longerons, accomplish the following:

A. Prior to the accumulation of 55,000 landings, or within the next 30 days, whichever occurs later, unless accomplished within the last 1,000 landings, perform external eddy current inspections of the fuselage skin and longerons from longeron 7 left through 7 right, in accordance with the accomplishment instructions of McDonnell Douglas DC-9 Alert Service Bulletin A53-230, dated November 2, 1988, within the range of fuselage stations for the particular series airplane as specified in Table I of that service bulletin.

B. Conduct repetitive inspections in accordance with paragraph A., above., according to the following schedule:

1. For Model DC-9-40 series airplanes: repeat the inspections at intervals not to exceed 2,500 landings.

2. For Model DC-9-10, -20, -30, -50, and C-9 series airplanes: repeat the inspections at intervals not to exceed 5,800 landings.

C. If cracks are detected, prior to further flight, repair in accordance with McDonnell Douglas DC-9 Alert Service Bulletin A53-230, dated November 2, 1988.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21-197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

This amendment becomes effective December 8, 1988.

Issued in Seattle, Washington, on November 8, 1988.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 88-26622 Filed 11-14-88; 3:59 pm]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-18-AD; Amdt. 39-6063]

Airworthiness Directives: Boeing Model 707/720 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 707/720 series airplanes, which currently requires inspections of the inboard engine nacelle strut attach structure to detect cracks, and repair, if necessary.

This amendment reduces the repetitive inspection interval for those operators who use the airplanes for short flights by adding a flight cycle upper limit as well as the current flight time limit. Further, a repair procedure listed in the current AD as terminating action is not adequate to prevent further cracking. Airplanes that have been repaired without the installation of the improved nacelle strut support fittings must be repetitively inspected. This action is prompted by a report of an engine separating from an airplane.

DATE: Effective December 21, 1988.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Scott F. Romer, Airframe Branch, ANM-120S; telephone (206) 431-1966. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 77-09-03, Amendment 39-2888 (42 FR 22863; May 5, 1977), to require inspections of the inboard engine nacelle strut attach structure to detect cracks, and repair, if necessary, on certain Boeing 707/720 airplanes, was published in the **Federal Register** on June 17, 1988 (53 FR 22657).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter suggested that the words "6,000 flight cycles, whichever comes first," should be added to the 12,000 hours time-in-service compliance threshold for the visual inspections required by paragraph D. This change would bring the AD in line with inspection requirements of the Supplemental Structural Inspection Document (SSID) program for the Model 707/720, as required by the AD 85-12-01. The FAA has considered this request and concurs that such a change is appropriate. The final rule has been revised accordingly. The FAA has determined that this change (1) does not increase the scope of the AD, and (2) will not increase the economic burden on any affected operator, since the average flight length these airplanes, as operated by U.S. operators, is greater than 2 hours.

The service bulletin date has been corrected in paragraph B. of the final rule to reflect "May 13, 1977." Additionally, paragraphs E. and F. of the final rule have been revised to include Revision 2 of Boeing Service Bulletin 3183, as an alternate service document reference. The FAA has determined that these changes do not increase the economic burden on any affected operator, nor do they increase the scope of the AD.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the change noted above.

It is estimated that 80 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $25,600.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model 707/720 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

2. By superseding AD 77-09-03, Amendment 39-2888 (42 FR 22863; May 5, 1977), with the following new airworthiness directive:

§ 39.13 [Amended]

Boeing: Applies to Boeing Model 707/720 series airplanes listed in Boeing Service Bulletin No. 3183, Revision 2, dated January 28, 1988, certificated in any category. Compliance required as indicated, unless already accomplished.

To prevent separation of an inboard engine, accomplish the following:

A. Except as provided in paragraphs B., C., and D., below, prior to the accumulation of 12,000 hours time-in-service, visually inspect the mid-spar support fittings of the inboard nacelles for cracks in accordance with Boeing Service Bulletin No. 3183, Revision 2, dated January 28, 1988. Thereafter, repeat the inspection at intervals not to exceed 1,500 hours time-in-service or 600 flight cycles for Models 707-300, -400, and -300B/C series airplanes, or 750 flight cycles for Models 707-100, -200, and 720 series airplanes, whichever occurs first. If any cracks are found, repair prior to further flight, in accordance with paragraph E., below.

B. If the mid-spar support fittings are currently being inspected in accordance with Boeing Service Bulletin No. 3183, Revision 1, dated May 13, 1977, or Revision 2, dated January 28, 1988, then continue the inspection program in accordance with Boeing Service Bulletin No. 3183, Revision 2, dated January 28, 1988. Repeat the inspections at intervals not to exceed 1,500 hours time-in-service or 600 flight cycles for Models 707-300, -400, and -300B/C series airplanes, or 750 flight cycles for Models 707-100, -200, and 720 series airplanes, whichever occurs first. For Model 707-300, -400, and -300B/C series airplanes with more than 500 flight cycles, and Model 707-100, -200, and 720 series airplanes with more than 650 flight cycles, since the last inspection on the effective date of this AD, inspect within the next 100 flight cycles or prior to the accumulation of 1,500 hours time-in-service since the last inspection, whichever occurs first. If any cracks are found, repair prior to further flight, in accordance with paragraph E., below.

C. If inspections had been terminated under paragraph D. of AD 77-09-03 by repairing the mid-spar support fittings, within the next 100 hours time-in-service after the effective date of this AD, visually inspect the mid-spar support fittings for cracks in accordance with Boeing Service Bulletin No. 3183, Revision 2, dated January 28, 1988. Repeat the inspection at intervals not to exceed 1,500 hours time-in-service or 600 flight cycles for Models 707-300, -400, and -300B/C series airplanes, or 750 flight cycles for Models 707-100, -200, and 720 series airplanes, whichever occurs first. If any

cracks are found, repair prior to further flight, in accordance with paragraph E., below.

D. If inspections had been terminated under paragraph D. of AD 77-09-03, by the replacement of the mid-spar support fittings with new like fittings, then prior to the new fittings having accumulated 12,000 hours time-in-service or 6,000 flight cycles, whichever occurs first, or within the next 100 hours time-in-service after the effective date of this AD, whichever occurs later, visually inspect the fittings for cracks in accordance with Boeing Service Bulletin No. 3183, Revision 2, dated January 28, 1988. Repeat at intervals not to exceed 1,500 hours time-in-service or 600 flight cycles for Models 707-300, -400, and -300B/C series airplanes, or 750 flight cycles for Models 707-100, -200, and 720 series airplanes, whichever occurs first. If any cracks are found, repair prior to further flight, in accordance with paragraph E., below.

E. If any cracks are found in the mid-spar support fittings, prior to further flight remove the fairings over the inboard nacelle strut upper support fittings and conduct an eddy current inspection of the fittings and the upper wing skin at the two most forward fastener holes on the inboard flange of the fittings common to the fittings, the front spar upper chord, and the upper wing skin, in accordance with Boeing Service Bulletin No. 3183, Revision 1, dated May 13, 1977, or Revision 2, dated January 28, 1988. Repair all cracks prior to further flight, in accordance with the service bulletin.

F. Terminating action for the requirements of this AD is replacement of the inboard nacelle strut inboard and outboard mid-spar support fittings, with improved fittings, in accordance with Boeing Service Bulletin No. 3183, Revision 1, dated May 13, 1977, or Revision 2, dated January 28, 1988, and inspection, modification, or replacement, if necessary, of the inboard nacelle strut overwing fittings to the front spar upper chord in accordance with that service bulletin.

Note: Inspections in this area required by AD 85-12-01 are not terminated by this paragraph.

G. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

H. Airplanes with no more than one tang of one inboard nacelle strut mid-spar support fitting failed may be flown in accordance with FAR 21.197 and 21.199 to a base where repairs required by this AD may be performed.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment supersedes AD 77-09-09, Amendment 39-2888.

This amendment becomes effective December 21, 1988.

Issued in Seattle, Washington, on October 31, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26524 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-73-AD; Amdt. 39-6068]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which requires replacement of the existing bolt and self-locking nut that attaches the downlock forward pushrod assembly to the downlock torque shaft of the main landing gear with a new bolt, castellated nut, and cotter pin. This action is prompted by reports of incidents involving loosening of the self-locking nut which resulted in loss of the nut and, in one case, loss of the bolt. This condition, if not corrected, could lead to separation of the forward pushrod from the downlock torque shaft, which could result in door jamming that could prevent the extension of the affected landing gear.

DATE: Effective December 23, 1988.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 727 series airplanes, which requires replacement of the existing bolt and self-locking nut that attaches the downlock forward pushrod assembly to the downlock torque shaft of the main landing gear (MLG) with a new bolt, castellated nut, and cotter pin, was published in the **Federal Register** on July 5, 1988 (53 FR 25171). The comment period for the proposal closed on August 25, 1988.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the five comments received.

The first commenter stated that the accomplishment of the modification requires more work than currently indicated in the service bulletins; therefore, the AD should be revised to allow 3,000 or 4,000 hours to accomplish the modification. Subsequent to the issuance of the Notice, the manufacturer advised the FAA of additional work required to accomplish the modification. The manufacturer has revised the applicable service bulletin to include this additional work. Part of the criteria used by FAA in establishing the proposed compliance time was a determination that the modification could be accomplished during an overnight check. In light of the foregoing, the additional time required to accomplish the modification will prevent accomplishment during an overnight check. Therefore, the FAA has determined the compliance time may be extended to permit compliance during a routine "C" check, and that safety will not be compromised by this increase. Accordingly, the final rule has been revised to extend the compliance time from 2,000 flight hours to 3,500 flight cycles.

One commenter requested that a provision be included to permit continued operation if repetitive checks of the security of the fastener are performed at 500-landing intervals; accomplishment of the modification would then terminate the need for these repetitive checks. The FAA does not concur. The FAA has determined that modification is necessary to correct the unsafe condition addressed. However, under the provisions of paragraph C. of the final rule, any operator may propose use of an alternate means of compliance or adjustment of the compliance time, if

an acceptable level of safety can be proven.

Another commenter stated that the loosening of the self-locking nut is a function of flight cycles instead of flight hours and that the final rule should be expressed in flight cycles. The FAA concurs that the loosening of the self-locking nut is a function of flight cycles and the final rule has been revised to refer to flight cycles. Since the average flight time for the Model 727 is approximately one hour, this change will not significantly impact the affected operators.

Another commenter stated that the Boeing Service Bulletin 727–32–0353 was incorrect in requiring aircraft jacking during the modification procedure. FAA discussions with the manufacturer have confirmed that jacking of the aircraft is required and the service bulletin is correct in including this procedure. The requirement to jack the aircraft is based upon the gear retraction check that is required to assure proper gear retraction and extension after the system has been disconnected. Accordingly, no changes are necessary in the final rule.

The final commenter requested that the final rule specify equivalent parts to the ones identified in the service bulletin to eliminate the requirement to petition the FAA for use of equivalent parts. The FAA notes that, as discussed below, the service bulletins have been revised to specify an equivalent bolt; therefore, the FAA does not consider it necessary to include a statement in the final rule concerning equivalent parts. Furthermore, if a petitioner does find another equivalent part, it still can petition the FAA for an alternate means of compliance under the provisions of paragraph C. of the final rule.

Since issuance of the NPRM, Boeing has revised the service bulletins to modify the procedure used to accomplish the modification. The FAA has reviewed and approved Boeing Service Bulletins 727–32–0353, Revision 1, and 727–32–0237, Revision 5, both dated July 7, 1988, to correct the procedure for replacing the existing bolt and self-locking nut that attaches the downlock forward pushrod assembly to the downlock torque shaft with a new bolt, castellated nut, and cotter pin. The final rule references the later Boeing Service Bulletins. The FAA has determined that this change will not increase the economic burden on any operator, nor does it increase the scope of the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes previously noted.

There are approximately 1,603 Model 727 series airplanes in the worldwide fleet. It is estimated that 1,018 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $651,520.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model 727 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

§ 39.13 [Amended]

Boeing: Applies to all model 727 series airplanes, prior to line number 1620, not equipped with the safety bar modification described in Boeing Service Bulletin 727–32–275, Revision 2, dated March 30, 1984, certificated in any category. Compliance required within the next 3,500 flight cycles after the effective date of this AD, unless previously accomplished.

To prevent failure of the main landing gear (MLG) to extend as a result of loosening of the self-locking nut at the attachment of the downlock forward pushrod assembly to the downlock torque shaft, accomplish the following:

A. Modify airplanes listed in Boeing Service Bulletin 727–32–0237, Revision 5, dated July 7, 1988, by installing the bolt, washer, nut, and cotter pin called out in Item 5 of Figure 5 of that service bulletin.

B. Modify airplanes listed in Boeing Service Bulletin 727–32–0353, Revision 1, dated July 7, 1988, by installing the bolt, washer, nut, and cotter pin in accordance with that service bulletin.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O., Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 23, 1988.

Issued in Seattle, Washington, on November 2, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88–26525 Filed 11–16–88; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 88-NM-92-AD; Amdt. 39-6064]

Airworthiness Directives: Fokker Model F-27 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Fokker Model F-27 series airplanes, which would require a one time inspection of the main landing gear torque links, and repair, if necessary. This amendment is prompted by reports of a number of torque links that were improperly machined during manufacture. This condition, if not corrected, could lead to jamming of the main landing gear in a position other than full extension.

DATE: Effective December 21, 1988.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft, USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 431-1978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations, to include a new airworthiness directive applicable to Fokker Model F-27 series airplanes, which requires a one-time inspection of the main landing gear torque links, and repair, if necessary, was published in the **Federal Register** on August 8, 1988 (53 FR 29695).

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

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

It is estimated that 38 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $3,040.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($80). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

§ 39.13 [AMENDED]

Fokker: Applies to Model F-27 series airplanes Serial Numbers 10102 to 10692, inclusive, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent jamming of the main landing gear, accomplish the following:

A. Within 90 days after the effective date of this AD, perform a one-time inspection of the main landing gear torque links, and repair, if necessary, in accordance with Fokker Service Bulletin F27/32-157, dated December 18, 1987.

Note: Fokker Service Bulletin F27/32-157, dated December 18, 1987, references Dowty-Rotol Service Bulletins 32-49SW, 32-82S, and 32-161B for procedures for the inspection and repair.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who may have not already received the appropriate service document from the manufacturer may obtain copies upon request to Fokker Aircraft, USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 21, 1988.

Issued in Seattle, Washington, on October 31, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26526 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-91-AD; Amdt. 39-6070]

Airworthiness Directives; Fokker Model F-28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Fokker Model F-28 series airplanes, which requires a visual inspection of the flap track beam support bracket and rear spar web and boom, and repair, if necessary. This amendment is prompted by reports of cracks detected in the rear spar web. This condition, if not corrected, could lead to structural failure in the flap and rear spar web, and fuel leakage.

EFFECTIVE DATE: December 27, 1988.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft U.S.A., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the

FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 431-1978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations, to include a new airworthiness directive applicable to Model Fokker F-28 series airplanes, which requires a visual inspection of the flap track beam support bracket and rear spar web and boom, and repair, if necessary, was published in the Federal Register on August 23, 1988 (53 FR 32078).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received. The commenter supported the rule.

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

It is estimated that 51 airplanes of U.S. registry will be affected by this AD, that it will take approximately 56 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $114,240.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model F-28 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Fokker B.V.: Applies to Model F-28 series airplanes, Serial Numbers 11003 to 11241 inclusive, 11991, and 11992, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural failure in the flap or rear spar web and fuel leakage, accomplish the following:

A. Prior to the accumulation of either 10,000 flight hours or 20,000 flight cycles (landings), or within 500 flight cycles (landings) after the effective date of this AD, whichever occurs later: Conduct an external visual inspection of the flap track beam support bracket for position in accordance with Part 1 of Fokker Service Bulletin F28/57-81, dated May 27, 1988.

B. If the flanges of the flap track beam support bracket are found during the inspection specified in A., above, to be parallel to the rear spar, no further action is required.

C. If the flanges of the flap track beam support bracket are found during the inspection specified in A., above, not to be parallel to the rear spar, inspect for cracks in the web of the rear spar, in accordance with Part 2 of Service Bulletin F28/57-81, dated May 27, 1988, before further flight.

1. If no cracks are found, repeat the inspection every 1,000 flight cycles (landings) until an internal inspection is conducted in accordance with Part 3 of Service Bulletin F28/57-81, dated May 27, 1988.

2. If, during the inspections accomplished in accordance with Part 3 of Service Bulletin F28/57-81, dated May 27, 1988, it is determined that the bolts are installed properly, a spotface is not found, and cracking does not exist, reseal or reinstall the bolts in accordance with Part 3 of that service bulletin. No further action, other than restoration to normal, is required.

3. If cracks are found during the inspections required by paragraph C., C.1., or C.2., above, or if a spotface is found during the inspections required by paragraph C.1., or C.2., prior to further flight, repair in a manner approved by the Manager, FAA Brussels Aircraft Certification Office, AEU-100. Under conditions noted in the Service Bulletin F28/57-81, dated May 27, 1988, temporary repairs may be made in accordance with Part 4 and the associated table and figures of that service bulletin.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft U.S.A., 1199 N. Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 27, 1988.

Issued in Seattle, Washington, on November 4, 1988.

Leroy A. Keith,

Manager, Transportation Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26527 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-55-AD; Amdt. 39-6062]

Airworthiness Directives; Garrett Turbine Engine Company Models TSCP 700-4B and TSCP 700-5 Auxiliary Power Units, Installed in, but not Limited to, McDonnell Douglas Model DC-10 and Airbus Industrie Model A-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Garrett Models TSCP 700-4B and TSCP 700-5 Auxiliary Power Units (APU) as installed in McDonnell Douglas Model DC-10 and Airbus Industrie Model A-300 series airplanes,

respectively, which requires either an increase in the tie rod stretch, or placing a life limit on in-service first stage low pressure compressor disks of 8,000 cycles, and replacement at that time with an improved disk. This amendment is prompted by a report of an APU compressor tie rod separation, following a first stage compressor disk rim separation, that resulted in an uncontained release of rotor components. This condition, if not corrected, could lead to additional uncontained APU rotor failures and the potential for compartment fires.

EFFECTIVE DATE: December 21, 1988.

ADDRESSES: The applicable service information may be obtained from Garrett Airline Service Division, A Division of the Allied-Signal Aerospace Company, Technical Publications, Dept. 65–70, P.O. Box 29003, Phoenix, Arizona 85038. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy McKinnon, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90808–2425; telephone (213) 988–5247.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD), which would have required an increase in tie rod stretch of Garrett Models TSCP 700–4B and TSCP 700–5 APU's, was published in the **Federal Register** on July 6, 1987 (52 FR 25237).

Numerous commenters to that proposal requested the FAA consider an alternate method of compliance with the proposed AD. Specifically, commenters suggested that, as an alternative to performing the tie rod stretch, operators could instead replace the existing low pressure disk with a new deflector-peened disk. As a result of those comments, a supplemental NPRM was published in the **Federal Register** on June 21, 1988 (53 FR 23253), which provided for this alternate method of compliance. The period for public comment closed August 1, 1988.

Several commenters to the initial NPRM suggested various changes to the proposed rule. The FAA concurred previously with these suggestions, as listed below, and included them as revisions in the supplemental NPRM. These changes included:

a. Permitting N_1 cycles to be calculated using the Garrett method of counting cycles (see paragraphs A. and C. of the final rule);

b. Replacing the date of Figure 1 of Garrett Alert Service Bulletin TSCP700–49–A5666 with the effective date of the final rule (see paragraph A.1. of the final rule);

C. Permitting an optional method of compliance by installation of an improved deflector peened disk (see paragraphs B. and C. of the final rule).

One commenter to the initial NPRM stated that the proposed AD was not justified and should be withdrawn, since there has been only one uncontained failure reported. The FAA disagrees. The FAA has determined that the potential for an uncontained disk separation exists on any of the affected airplanes equipped with the subject APU's. In view of the potential damage that could occur, the FAA maintains that the actions required by this AD are necessary to correct an unsafe condition.

Two commenters had concerns regarding use of the restretch procedure in accordance with Garrett Alert Service Bulletin TSCP700–49–A5666. One commenter stated that the restretching procedure takes the tie rod to the 80% yield point; this would increase loads on the nut and threads; which may induce unknown failure modes and create a potential hazard to shop personnel. The other commenter expressed concerns about the potential for N_1 unbalance, possible first stage disk runout, increased deflections, possible uneven curvic coupling deformations, and the like. The FAA ackowledges these concerns, but is not aware of any service history that would support them. Other commenters have reported successful restretches using the procedure described in the Garrett Service Bulletin, with no problems encountered.

Another commenters stated that there have been a number of "infant mortality" removals on restretched APU's, and the reliability of the APU will deteriorate as a result of restretching. The FAA does not concur. The APU manufacturer has advised FAA that such problems have been encountered by only one operator, and it was determined that those difficulties were the result of other problems not attributable to the tie rod restretch.

Another commenter suggested that the proposed AD be applicable exclusively to the Airbus Model A300 series airplanes, since the only known failure occurred on that model airplane and there has never been a similar failure on a McDonnell Douglas Model DC–10 series airplane. This commenter also stated that Garrett has issued service bulletins to address severe frettage of the low pressure compressor disk assemblies installed on Model A300 airplanes; and Airbus has issued service bulletins describing procedures to smooth the inlet airflow and eliminate the adverse effect of the APU inlet on the APU low compressor. The FAA does not concur. Since the same APU is installed on both airlane models, the potential for the same unsafe conditions exists. Further, Garrett has advised FAA that the service bulletins issued on the Model A300, referenced by this commenter, address blade failures at the root caused by high cycle fatigue. The current problem addressed by this AD action is that of disk failure due to low cycle fatigue in which disk rim segments, including one or more blades, may be released. Therefore, the FAA does not consider these comments to be applicable to this AD.

This commenter also requested that compliance with paragraph B. of the proposed AD (disk replacement at 8,000 cycles) be on the same schedule as compliance with paragraph A. (increased tie rod stretch). As written in the proposal, some operators who decide to accomplish the disk replacement would be required immediately to remove from service those APU's with disks having more than 8,000 cycles. The FAA has considered this request and has determined that the initial replacement of the disk under the provisions of paragraph B. may be accomplished using the same schedule as specified in paragraph A., and the final rule has been revised accordingly. The FAA has determined that this change will not increase the economic burden on any operator, nor will it increase the scope of the AD.

Another commenter suggested that the proposed AD be revised to require the tie rod restretch to be performed "at the next shop visit." The FAA does not concur. Due to the wide range in maintenance cycles employed by the affected operators, the FAA has determined that the schedule and compliance time for the accomplishment of the restretch, as proposed, is appropriate to ensure that the unsafe condition is corrected in a timely manner.

Finally, one commenter supported the proposal, but suggested an alternative method of complying with the intent of the proposed AD. The FAA notes that use of an alternate means of compliance may be permitted in accordance with paragraph D. of the final rule.

Paragraph A. of the final rule has been revised to reflect the correct issue date

of Revision 2 of Garrett Alert Service Bulletin TSCP700–49–A5666 as July 27, 1987, rather than April 10, 1987, as was noted in the supplemental NPRM.

A note has been added to paragraph A. to clarify that all APU installations which are capable of permitting the N_1 speed to go above 91% for main engine start, even though this is done infrequently, are included in either paragraph A.1. or A.3. of the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the changes previously described.

It is estimated that 229 APU's installed in airplanes of U.S. registry will be affected by this AD, that it will take approximately three manhours per unit to accomplish the tie rod restretch, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators who elect to perform the restretch is estimated to be $27,480. This cost would be reimbursed by the manufacturer. The cost to those operators who elect to replace the disk at 8,000 cycles would be approximately $3,037 per disk.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because of the minimal cost of compliance per airplane ($120 or $3,037). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new Airworthiness Directive:

Garrett Turbine Engine Company: Applies to Garrett Model TSCP 700–4B Auxiliary Power Units (APU), prior to serial number P–90670; and Model TSCP 700–5 APU's, prior to serial number P–80441; as installed in, but not limited to, McDonnell Douglas DC–10 and Airbus Industries A300 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent compressor tie rod separation in the event of disk rim separation, accomplish the following:

A. Relieve the tie rod stretch and restretch the tie rods in accordance with the Accomplishment Instructions of Garrett Alert Service Bulletin TSCP 700–49–A5666, Revision 2, dated July 27, 1987, in accordance with the following schedule:

Note: For the purpose of this AD, the Garrett method of cycle counting may be used on the first stage low compressor disk.

1. If the first stage low pressure compressor disk has been allowed to run above 91% and has accumulated more than 6,000 cycles, after the effective date of the AD, complete the tie rod restretch in accordance with the Accomplishment Instructions, and within the cycle times defined by Figure 1, of the above Service Bulletin. The date shown in Figure 1 is replaced by the effective date of this AD.

2. If the first stage low pressure compressor disk has accumulated more than 6,000 cycles since new (CSN), but the N_1 speed has been limited to 91% maximum, the tie rod restretch must be accomplished within 3,000 cycles after the effective date of this AD, but not to exceed the disk life limit of 12,000 CSN.

3. If the first stage low pressure compressor disk has accumulated 6,000 CSN or less, and the N_1 speed has been allowed to go above 91%, the tie rod restretch must be accomplished prior to the accumulation of 8,000 CSN.

4. If the first stage low pressure compressor disk has accumulated 6,000 CSN or less, but the N_1 speed has been limited to 91% maximum, the tie rod restretch must be accomplished prior to the accumulation of 9,000 CSN.

Note: All APU installations which are capable of permitting the N_1 speed to go above 91% for main engine start, even though this is done infrequently, are included in either paragraph A.1. or A.3., above.

B. Compliance with Option 2, "Disk Replacement at 8,000 Cycles," of the Accomplishment Instructions of Garrett Service Bulletin TSCP 700–49–A5666, Revision 3, dated December 15, 1987, is considered an acceptable alternate means of compliance with the requirements of this AD. This replacement may be accomplished in accordance with the compliance schedule specified in paragraph A., above.

C. Replacement of the disk with a deflector-peened disk, in accordance with Garrett Service Bulletin TSCP 700–49–5695, Revision 1, dated December 22, 1987, constitutes terminating action for the requirements of this AD.

D. Alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Garrett Airline Service Division, A Division of the Allied-Signal Aerospace Company, Technical Publications, Dept. 65–70, Phoenix, Arizona 85038. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

This amendment becomes effective December 21, 1988.

Issued in Seattle, Washington, on October 31, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88–26528 Filed 11–16–88; 8:45 a.m.]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 88–NM–151–AD; Amdt. 39–6066]

Airworthiness Directives; McDonnell Douglas Models DC–9, C–9, and DC–9–80 (MD–80) Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas

Models DC-9, C-9, and DC-9-80 (MD-80) series airplanes and Model MD-88 airplanes, which requires checking of the aft accessory compartment for fuel after every Auxiliary Power Unit (APU) false start, and removal of fuel, if necessary. This amendment is prompted by a report of a fire in the aft accessory compartment. This condition, if not corrected, could result in a fire hazard due to fuel leaking into the aft accessory compartment.

EFFECTIVE DATE: December 2, 1988.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 E. Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Baitoo, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5245.

SUPPLEMENTARY INFORMATION: A Model DC-9-30 airplane recently experienced a fire in the aft accessory compartment. Investigation revealed that during an APU false start, fuel leaked into the aft accessory compartment through holes chafed in the APU exhaust outer elbow. During the subsequent start cycle, the flame in the fuel wetted APU exhaust propagated through the holes and ignited the leaked fuel which had puddled in the aft accessory compartment. The holes in the APU exhaust outer elbow were caused by chafing with the baffles installed in accordance with McDonnell Douglas DC-9 Service Bulletin 49-25, dated November 10, 1987, which was the subject of AD 80-03-04. The baffles were intended to divert fuel away from the APU exhaust expansion joint to prevent fuel from entering the aft accessory compartment. The operator performed leak checks of all 80 Model DC-9 airplanes in its fleet and found 5 cases of fuel leaking in the aft accessory compartment. This condition, if not corrected, can result in a fire hazard in the aft accessory compartment.

The FAA has reviewed and approved McDonnell Douglas DC-9 Service Bulletin A49-40, dated September 26, 1988, which describes procedures for repair and modification of the APU exhaust system.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires installation of a placard and a revision to the FAA-approved Airplane Flight Manual (AFM) to require inspection of the aft accessory compartment for fuel, and removal of fuel, if necessary. Further, this AD provides for an optional terminating action of repair and modification of the APU exhaust system, in accordance with the previously mentioned service bulletin. Although this modification is currently an optional requirement, the FAA is considering further rulemaking to require its installation.

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

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures or Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Models DC-9, C-9, and DC-9-80 (MD-80) series airplanes, and Model MD-88 airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent a fire hazard in the aft accessory compartment, accomplish the following:

A. Within 30 days or 300 flight hours time-in-service after the effective date of this AD, whichever occurs first, or upon the accumulation of 3,000 flight hours time-in-service since new, whichever occurs later, accomplish the following:

1. Check for evidence of fuel on the APU exhaust ducting, and in the surrounding area in the aft accessory compartment, including the insulation blankets. Remove any fuel before the next APU start attempt.

2. Install a placard on or above the center instrument panel in a location that allows it to be in full view of both pilot and co-pilot, and on the Aircraft Logbook, stating the following: "Do not attempt to restart APU after a false start until check of aft accessory compartment for fuel is accomplished."

3. Add the following to the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM: Do not attempt to restart APU after a false start until check of aft accessory compartment for fuel is accomplished.

B. Accomplishment of the repair and modification of the APU exhaust system, in accordance with McDonnel Douglas DC-9 Service Bulletin A49-40, dated September 26, 1988, constitutes terminating action for the requirments of this AD; the placard and AFM change required by paragraph A., above, may then be removed.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received appropriate service information from the manufacturer may obtain copies upon

request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 E. Spring Street, Long Beach, California.

This amendment becomes effective December 2, 1988.

Issued in Seattle, Washington, on November 2, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88–26530 Filed 11–16–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 88–NM–148–AD; Amdt. 39–6067

Airworthiness Directives; McDonnell Douglas Model DC–9–10 Through –80 Series, Model MD–88, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9–10 through –80 series, Model MD–88, and C–9 (Military series airplanes, which requires inspection and replacement, if necessary, of the attachment hardware for the forward passenger and aft service door assist handle. This amendment is prompted by reports of loose attachment hardware and separation of the door assist handle located forward of the doors on the bulkhead. This condition, if not corrected, could lead to injury of the cabin crew when opening or closing the door.

EFFECTIVE DATE: December 2, 1988.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L65 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California 90806–2425.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Salas, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5324.

SUPPLEMENTARY INFORMATION: An operator of a McDonnell Douglas Model DC–9–80 Series airplane has reported that a flight attendant was attempting to release the forward passenger door from the open position when the door assist handle she was holding, located forward of the door on the bulkhead, separated from the aircraft structure, causing her to fall from the aircraft to the tarmac, resulting in a severe head injury. Subsequent investigation has revealed loose assist handles found on eight other Model DC–9 series airplanes. Incorrect attachment hardware apparently has been installed, and may be installed on other airplanes.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin A25–302 dated September 21, 1988, which describes inspection and replacement procedures for door assist handle hardware.

Since this condition is likely to exist or develop in other airplanes of the same type design, this AD requires inspection and replacement, if necessary, of attachment hardware in accordance with the service bulletin previously mentioned.

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

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–9–10 through –80 series, Model MD–88, and C–9 (Military) series airplanes, Fuselage Numbers 2 through 1510, certificated in any category. Compliance required as indicated, unless previously accomplished.

To preclude separation of the forward passenger or aft service door assist handle, accomplish the following:

A. Within 45 days after the effective date of this AD, inspect the forward entry and aft service doors assist handles and attachment hardware to ascertain if the proper assist handle retaining parts are installed and if the self-locking plate nuts retain appropriate locking torque, in accordance with the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin A25–302, dated September 21, 1988. If any part is found to be improperly installed, replace prior to further flight, in accordance with the Service Bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846; Attention: Director of Publications, C1–L00 (54–60). These documents may be examined at

the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective December 2, 1988.

Issued in Seattle, Washington, on November 2, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26529 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-55-AD; Amdt. 39-6065]

Airworthiness Directives; McDonnell Douglas Model DC-10-10 and -30 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive, applicable to all McDonnell Douglas Model DC-10-10 and -30 series airplanes, which requires inspection and modification of the passenger service unit (PSU), and the removal, inspection, and replacement of PSU oxygen canisters, if necessary. This amendment is prompted by reports that the chemical oxygen generator canisters have been punctured by the existing standoff bracket within the PSU. This condition, if not corrected, could result in loss of the use of the emergency oxygen system during rapid depressurization of the airplane.

EFFECTIVE DATE: December 22, 1988.

ADDRESSES: The applicable service information may be obtained from Jepson-Burns Corporation, 1455 Fairchild Road, Winston-Salem, North Carolina 27105-4588. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Edward S. Chaplin, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806; telephone (213) 988-5335.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) which requires inspection and modification of the passenger service unit (PSU), and the removal, inspection, and replacement of the PSU oxygen canisters, as necessary, on McDonnell Douglas Model DC-10-10 and -30 airplanes, was published in the **Federal Register** on July 15, 1988 (53 FR 26787).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

No commenters objected to the technical content of the amendment; all commenters agreed that the subject modification was necessary and appropriate.

One commenter requested that the proposed compliance time be extended from 90 days to 180 days after the effective date of the AD because of a potential parts shortage problem. FAA does not concur. The manufacturer has advised FAA that brackets and canisters are readily available, and further stated that all necessary hardware had been supplied to most of its affected customers over a year ago. In light of this, the FAA has determined that 90 days is sufficient for compliance. The urgency of the problem also merits this compliance time.

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

It is estimated that 105 airplanes of U.S registry will be affected by this AD. There are approximately 88 PSU's on each airplane. It will take approximately .5 manhours per PSU to accomplish the required actions, and the average labor cost will be $40 per manhour. The cost of modification parts is estimated to be $192 per PSU. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $18,656 per airplane, or $1,958,880 for the U.S. fleet.

The regulations adopted herein will not have substantial direct effects on the states, of the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model DC-10-10 and -30 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10-10 and -30 series airplanes equipped with Jepson-Burns Corporation seat Model FBC-2000UHDE-( ), certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure proper operation of the passenger emergency oxygen system, accomplish the following:

A. Within 90 days after the effective date of this AD, remove and inspect all 3-man oxygen generators, Scott Aviation Part Number 801386-06, within the passenger service unit (PSU) of the seat. Replace, prior to further flight, any generator showing evidence of food tray latch and cotter pin contact and wear on the canister.

B. Within 90 days after the effective date of this AD, remove existing brackets and install new bracket assemblies, Jepson-Burns Part Number 42703001, in accordance with the Implementation Instructions of Jepson-Burns Service Bulletin Number 25-20-618, dated June 10, 1987.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons effected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to the Jepson-Burns Corporation, 1455 Fairchild Road, Winston-Salem, North Carolina. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective December 22, 1988.

Issued in Seattle, Washington, on November 1, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26531 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 382

[Docket No. RM88-29-000; Order No. 507]

Annual Charges Under the Omnibus Budget Reconciliation Act of 1986

Issued November 7, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interpretive rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) clarifies certain procedures governing the calculation and assessment of annual charges for certain classes of regulated entities. The Commission adopted these procedures in May 1987, pursuant to the requirements of section 3401 of the Omnibus Budget Reconciliation Act of 1986 (52 FR 21263 (June 5, 1987)).

This interpretive rule addresses two issues: (1) The treatment of a firm whose failure to comply with annual charges procedures results in distortion of annual charges bills and/or deficiencies in the Commission's annual charges receipts; and (2) the finality of the Commission's recalculation and adjustment of annual charges for one fiscal year at the time it calculates initial annual charges for the following fiscal year.

The Commission clarifies in this rule that it may take appropriate and equitable action to recoup deficiencies in annual charges receipts due to failure of a firm to file data required for calculation of annual charges, late filing of such data, or filing of incorrect data. The Commission also clarifies that the recalculation and adjustment of the most recent annual charges, routinely conducted at the time the Commission initially computes annual charges for the following year, is the sole adjustment and that charges based on that adjustment are final. Therefore, corrective data and any request for adjustment for the prior fiscal year must be filed in time to be considered during that process.

EFFECTIVE DATE: This interpretive rule is effective November 7, 1988.

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

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this interpretive rule will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Interpretive Rule

Before Commissioners: Martha O. Hesse, Chairman; Charles G. Stalon, Charles A. Trabandt, Elizabeth Anne Moler, and Jerry J. Langdon.

The Federal Energy Regulatory Commission (Commission) established regulations governing the calculation and assessment of annual charges for certain classes of regulated entities to recover the outstanding costs of the Commission's regulatory programs for those entities. In Order No. 472, the Commission adopted regulations establishing annual charges for public utilities, power marketing agencies, natural gas pipeline companies, and oil pipeline companies.[1] This regime of annual charges, required by section 3401 of the Omnibus Budget Reconciliation Act of 1986 (1986 Budget Act),[2] is intended to reimburse the United States for all the costs incurred by the Commission, other than costs recovered through the Commission's filing fees [3] or costs incurred in administrating Part I of the Federal Power Act (FPA). The latter costs, largely resulting from the Commission's hydropower regulatory authority, are recovered through a different annual charges regime authorized by section 10(e) of the FPA.[4]

The Commission is statutorily required to assess and collect annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year. The 1986 Budget Act permits the Commission's cost assessment to be based on data available at the time of assessment and requires charges to be paid by the end of the fiscal year for which they were assessed. The same act requires the Commission, after the completion of that fiscal year, to adjust those preliminary assessments in order to eliminate any overrecovery or underrecovery of the Commission's total costs and any overcharging or undercharging of any person assessed annual charges.[5]

In Order No. 472, the Commission adopted a procedure for calculation and assessment of annual charges, pursuant to the statutory directive. The Commission determined that the most accurate available data on which to base its calculations are the Commission's expenses for the prior fiscal year and company sales, transportation volumes, and operating revenues, as appropriate, for the prior reporting year.[6] The Commission issues

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[1] Order No. 472, Annual Charges Under the Omnibus Budget Reconciliation Act of 1986, 52 FR 21263 (June 5, 1987), FERC Stats. and Regs. ¶ 30,746 (May 29, 1987); Order No. 472-A, 52 FR 23650 (June 24, 1987), FERC Stats. and Regs. ¶ 30,750 (June 17, 1987); Order No. 472-B, 52 FR 38013 (September 25, 1987), FERC Stats. and Regs. ¶ 30,767 (September 16, 1987); Order No. 472-C, 42 FERC ¶ 61,013 (January 14, 1988).

[2] 42 U.S.C. 7178 (Supp. 1988).

[3] The Commission's filing fees are authorized by the Indepedent Offices Appropriations Act, 31 U.S.C. 9701 (1982). The Commission's fee structure and procedures for collection of those fees are codified in 18 CFR Part 381 (1988).

[4] 16 U.S.C. 803(e) (1982). The Commission's regulations for those annual charges are codified in 18 CFR Part 11 (1988).

[5] 42 U.S.C. 7178(a), (c), (d), and (e) (Supp. 1988).

[6] Annual charges are based on sales during the preceding reporting year for public utilities (either a

Continued

annual charges bills, calculated on the basis of this prior data at least 45 days before the end of the fiscal year for which the charges are assessed and requires payment within 45 days of issuance. The Commission's regulations provide that the Commission may refuse to process any petition, application, or other filing submitted by or on the behalf of any person that does not pay the annual charge assessed when due, or take any other appropriate action permitted by law.[7]

In Order No. 472, the Commission adopted a procedure of recalculating and adjusting the most recent annual charges assessment at the time it assesses charges for the following year by using actual Commission cost and company data for the previous completed year. The Commission includes adjustments of the prior year's charges as debits or credits on the firms' annual charges bills for the following year.

This interpretive rule addresses two issues: (1) The treatment of a firm whose failure to comply with annual charges procedures results in distortion of annual charges bills and/or deficiencies in the Commission's annual charges receipts; and (2) the finality of the Commission's recalculation and adjustment of annual charges for one fiscal year at the time it calculates initial annual charges for the following fiscal year. Both issues arise from the statutory requirements in section 3401 of the 1986 Budget Act that the Commission assess and collect annual charges for each fiscal year during that fiscal year and that it adjust those assessments after the completion of that fiscal year.

The Commission clarifies that, should an entity subject to assessment of annual charges distort the annual charges calculation for the members of its class of entity by failure to file data, by late filing of data, or by filing of incorrect data, the Commission may take appropriate and equitable action to compensate itself for any deficiencies in its receipts. In two recent procedings,[8] the failure of firms to comply with the Commission's annual charges procedures caused distortions in the initial annual charges bills of all firms in their respective class of regulated entity and delayed collection of the full amount due until the routine recalculation and adjustment conducted one year later. Therefore, the Commission assessed the two companies interest on the amount whose receipt was delayed. The Commission determined to calculate that interest on the amount of the delayed receipt in accordance with §§ 382.103 and 154.67(c)(2)(iii) of its regulations for the period until the date on which the delayed receipts could be collected.

The Commission also clarifies that the recalculation and adjustment of annual charges that it routinely conducts at the time that it initially computes annual charges for the following year is the sole adjustment and that charges based on that adjustment are final. Accordingly, any corrective data or request for adjustment for the prior fiscal year must be filed in time to be considered during that process.

The congressional intent that the Commission recover its costs through annual charges supports the assessment of interest to recoup the time value of delayed receipts due to an entity's failure to comply with the annual charges procedures. The need to impose a measure of finality on the process of assessing annual charges, a fixed-pie calculation in which adjustment of the charge for one entity usually requires changes in the charges for all others in its class, is self-evident. It is a reasonable implementation of the statutory scheme to draw that line after the routine adjustment during the following fiscal year.

Effective Date

The Administrative Procedure Act exempts interpretive rules from both the notice and comment requirements of section 4(b) of the Administrative Procedure Act [9] and the requirement that publication be made 30 days before the effective date of the rule.[10] This rule is properly characterized as an interpretive rule because it states the Commission's interpretation of section 3401 of the Omnibus Budget Reconciliation Act of 1986 and its regulations for the assessment of annual charges. Therefore, this rule is effective November 7, 1988.

By the Commission. Commissioner Langdon voted present.

Lois D. Cashell,

Secretary.

FR Doc. 88-26591 Filed 11-16-88; 8:45 am]

BILLING CODE 6717-01-M

calendar year or a fiscal year depending on the accounting convention used by the particular public utility); on sales during the preceding fiscal year for power marketing agencies; on sales and volumes transported during the previous calendar year for natural gas pipelines; and on revenues for the previous calendar year for oil pipelines. 18 CFR 382.201-382.203 (1988).

[7] 18 CFR 382.104 (1988).

[8] Texas Utilities Electric Company, 45 FERC ¶ 61,007 (1988); Southwest Gas Corporation, 43 FERC ¶ 61,290 (1988).

[9] 5 U.S.C. 533(b) (1982)

[10] 5 U.S.C. 533(d) (1982)

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 356

[DoD Directive 5110.4]

Washington Headquarters Services

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This part is revised to reflect current organizational arrangements within the Office of the Secretary of Defense. The Director, Administration and Management serves also as the Director, Washington Headquarters Services.

EFFECTIVE DATE: November 4, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. R. Kennedy, Office of the Director for Administration and Management, Washington, DC 20301-1155, telephone (202) 697-1142.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 159

Organization and functions (Government agencies).

Accordingly, 32 CFR Part 356 is revised as follows:

PART 356—WASHINGTON HEADQUARTERS SERVICES

Sec.

Authority: 10 U.S.C. 113(d)

§ 356.1 Purpose.

This part:

(a) Reissues 32 CFR Part 356.

(b) Pursuant to the authority vested in the Secretary of Defense under 10 U.S.C., updates the Washington Headquarters Services (WHS) with functions, responsibilities, relationships, and authorities as outlined in the following.

§ 356.2 Definition.

DoD Components. The Office of the Secretary of Defense (OSD); the Military

Departments; the Joint Chiefs of Staff; the Joint Staff; the Unified and Specified Commands; the Office of the Inspector General, Department of Defense (OIG, DoD); the Defense Agencies; and the DoD Field Activities.

§ 356.3 Mission.

The WHS shall provide administrative and operational support to specified activities in the National Capital Region (NCR) and elsewhere as required.

§ 356.4 Organizations and management.

(a) The WHS is established as a Field Activity of the Department of Defense. It shall consist of a Director and such subordinate organizational elements as are established by the Director within resources authorized by the Secretary of Defense.

(b) The Director of Adminstration and Management (DA&M) also shall serve as the Director, WHS.

§ 356.5 Functions and responsibilities.

The *Director, Washington Headquarters Services,* shall:

(a) Organize, direct, and manage the WHS and all resources assigned to the WHS.

(b) Provide administrative support to the OSD, and those Defense Agencies, DoD Field Activities, and specified activities that do not have an internal administrative support capability. This support shall include all or part of the following:

(1) Budget and accounting.

(2) Civilian and military personnel management.

(3) Office services.

(4) Personnel and information security.

(5) Correspondence, cables, Directives, and records management.

(6) Travel.

(7) Other miscellaneous administrative support, as required.

(c) Administer information and data systems in support of the OSD decision and policymaking processes. This involves management information collection and reports preparation to areas including, but not limited to, procurement, logistics, manpower, and economics.

(d) Manage DoD reports, forms, and data elements and data codes standardization programs.

(e) Manage DoD-occupied, GSA-controlled administrative space in the NCR and DoD common support facilities. This includes space management, law enforcement, maintenance, repair and alteration of assigned buildings, custodial services, physical security, building administation, graphics, contracting, property management, concessions, and other support services.

(f) Manage activities in support of the responsibilities of the Secretary of Defense for the Federal Voting Assistance Program.

§ 356.6 Relationship.

For the performance of assigned functions, the Director, WHS, shall:

(a) Coordinate and exchange information and advice with elements of the OSD and other DoD Components having collateral or related responsibilities.

(b) Make use of established facilities and services in the Department of Defense and other Government Agencies, whenever practical, to avoid duplication and achieve maximum efficiency and economy.

(c) Consult and coordinate with other governmental and nongovernmental agencies on matters related to the WHS mission.

§ 356.7 Authorities.

The Director, WHS, or designee, specifically is delegated authority to:

(a) Obtain such information, consistent with the policies and criteria of DoD Directive 7750.5 [1] advice, and assistance from DoD Components, as necessary.

(b) Issue DoD Instructions, DoD publications, and one-time directive-type memoranda, consistent with DoD 5025.1–M that implement approved policies in the functions assigned to the Director, WHS. Instructions to the Military Departments shall be issued through the Secretaries of those Departments, or their designees. Instructions to the Unified and Specified Commands shall be issued through the Chairman, Joint Chiefs of Staff (CJCS).

(c) Communicate directly with appropriate DoD Component personnel on matters related to the mission and programs of the WHS.

(d) Exercise the delegations of authority contained in Appendix of this Part.

Appendix—Delegations of Authority

Pursuant to the authority vested in the Secretary of Defense, and subject to his direction, authority, and control, and in accordance with DOD policies, Directives, and Instructions, the Director, WHS, or the person properly designated to act for him or her, is hereby delegated authority with respect to the WHS and activities receiving administrative support from the WHS to:

1. Exercise the power vested in the Secretary of Defense by 5 U.S.C. 302 and 3101 pertaining to the employment, direction, and general administration of civilian personnel.

2. Fix rates of pay for wage-rate employees exempted from the Classification Act of 1949 by 5 U.S.C. 5102 on the basis of rates established under the Federal Wage System. In fixing such rates, the Director, WHS, shall follow the wage schedule established by the DOD Wage Fixing Authority.

3. Establish such advisory committees and employ such part-time advisers as approved by the Secretary of Defense pursuant to 10 U.S.C. 173, 5 U.S.C. 3109(b), and the June 21, 1977 agreement between the Department of Defense and the Civil Service Commission on employment of experts and consultants.

4. Administer oaths of office incident to entrance into the Executive Branch of the Federal Government or any other oath required by law in connection with employment therein, in accordance with 5 U.S.C. 2903(b).

5. Establish an Incentive Awards Board and pay cash awards to and incur necessary expenses for the honorary recognition of civilian employees of the Government for suggestions, inventions, superior accomplishments, or other personal efforts, including special acts or services, in accordance with 5 U.S.C. 4503 and applicable Office of Personnel Management (OPM) regulations.

6. In accordance with 5 U.S.C. 7532; Executive Orders 10450, 12333, and 12356; DOD Directive 5200.2; and DOD 5200.2–R, as appropriate:

a. Designate positions as "sensitive."

b. Authorize, in case of an emergency, the appointment to a sensitive position, for a limited period of time, of a person for whom a full field investigation or other appropriate investigation, including the National Agency Check, has not been completed.

c. Authorize the suspension of, but not terminate the services of, an employee in the interest of national security.

d. Initiate investigations, issue personnel security clearances and, if necessary in the interest of national security, suspend, revoke, or deny a security clearance for personnel assigned, detailed to, or employed by DOD Components for which the Director, WHS, has been delegated responsibility or has consented by written agreement to provide personnel security support. Any action to deny or revoke a security clearance shall be taken in accordance with procedures prescribed in DOD 5200.2–R, "DOD Personnel Security Program," January 1987.

7. Act as agent for the collection and payment of employment taxes imposed by appropriate statutes.

8. Authorize and approve overtime work for civilian officers and employees in accordance with subchapter V, Chapter 55, Title 5, U.S. Code, and applicable OPM regulations.

9. Authorize and approve:

a. Travel for civilian employees in accordance with Joint Travel Regulations, Volume 2, Department of Defense Civilian Personnel.

b. Temporary duty travel for military personnel in accordance with Joint Travel

[1] Copies may be obtained if needed, from the U.S. Naval Publication and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

Regulations, Volume I, for members of the Uniformed Services.

c. Invitational travel to persons serving without compensation whose consultative, advisory, or other highly specialized technical services are required, pursuant to 5 U.S.C. 5703.

10. Approve the expenditures of funds available for travel by military personnel for expenses incident to attendance at meetings of technical, scientific, professional, or other similar organizations in such instances when the approval of the Secretary of Defense, or his designee, is required by law (37 U.S.C. 412, 5 U.S.C. 4110 and 4111).

11. Develop, establish, and maintain an active and continuing Records Management Program, pursuant to section 506(b) of the Federal Records Act of 1950 (44 U.S.C. 3102).

12. Establish and use imprest funds for making small purchases of material and services, other than personal, when it is determined to be more advantageous and consistent with the best interest of the Government, in accordance with DOD Instruction 5100.71, "Delegation of Authority and Regulations Relating to Cash Held at Personal Risk Including Imprest Funds," March 5, 1973.

13. Authorize the publication of advertisements, notices, or proposals in newspapers, magazines, or other public periodicals, consistent with 44 U.S.C. 3702.

14. Establish and maintain appropriate property accounts and appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for property contained in the authorized property accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unservicable, in accordance with applicable laws and regulations.

15. Promulgate the necessary security regulations for the protection of property and places under the jurisdiction of this Directive, pursuant to DOD Directive 5200.8, "Security of Military Installations and Resources," July 29, 1980.

16. Establish and maintain, for the Department of Defense, an appropriate publications system for the promulgation of Regulations, Instructions, and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DOD Directive 5025.1, "Department of Defense Directives System," October 16, 1980.

17. Enter into support and service agreements with the Military Departments, other DOD Components, or other Government Agencies, as required for the effective performance of assigned responsibilities and functions.

18. Enter into and administer contracts, directly or through a Military Department, a DOD contract administration services component, or other Government Department or Agency, as appropriate, for supplies, equipment, and services required to accomplish assigned responsibilities and functions. To the extent that any law or Executive order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority shall be exercised by the appropriate Under Secretary or Assistant Secretary of Defense.

19. Approve contractual instruments for commercial-type concessions at the seat of Government, and maintain general supervision over commercial-type concessions operated by or through the Department of Defense at the seat of Government, in accordance with DOD Directive 5120.18, "DOD Concessions Committee," April 8, 1980.

20. Act as custodian of the seal of the Department of Defense and attest to the authenticity of official records of the Department of Defense under said seal (10 U.S.C. 132).

The Director, WHS, may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

These delegations of authority are effective immediately.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 10, 1988.

[FR Doc. 88-26641 Filed 11-16-88; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 11-88-05]

Temporary Drawbridge Operation Regulations; Cerritos Channel, CA

AGENCY: Coast Guard, DOT.

ACTION: Final temporary rule.

SUMMARY: At the request of California Department of Transportation, the Coast Guard is amending the temporary drawbridge operation regulations for the Schuyler Heim drawbridge across Cerritos Channel at Long Beach, California. The temporary regulations are being amended to facilitate repairs to the bridge electrical and fendering systems and replacement of the bridge deck. The regulations prohibit openings for recreational vessels, require advance notice for commercial vessel passages, and provide that the draw need not be opened for the passage of vessels for 90 days during the construction/repair period from October 1, 1988 to March 31, 1989. The temporary regulations originally provided only a 60 day closure during the construction period, but electrical repairs are now estimated to take 90 days. This action will accommodate the reasonable needs of navigation. Small boats and some commercial vessels will be able to pass under the closed bridge, and larger vessels have an alternate channel available. The distance from one side of the bridge, around Terminal Island, to the other side is about 11 miles.

EFFECTIVE DATES: These regulations become effective on November 28, 1988 and terminate on March 31, 1989.

FOR FURTHER INFORMATION CONTACT: Sharol Taylor, Bridge Administrator, Eleventh Coast Guard District at (415) 437-3514.

SUPPLEMENTARY INFORMATION: On June 16, 1988, the Coast Guard published a proposed temporary rule concerning this amendment (53 FR 22506). The Commander, Eleventh Coast Guard District, also published the proposal as a Public Notice 11-64 dated June 17, 1988. In each notice, interested persons were given until August 1, 1988 to submit comments. On September 19, 1988, the Coast Guard published a temporary rule concerning an amendment to the permanent operating regulations (53 FR 36273). Subsequent to that final rulemaking, CALTRANS requested an additional 30 day closure which is needed to complete the repairs. The Coast Guard met with CALTRANS, Crowley Towing and Transportation Co., Fossee Towing/PACTOW, LA Pilots, Jacobsen Pilot Service, and various port authorities, and determined the time extension was necessary for the completion of repairs and is reasonable for the needs of navigation. The 90 day closure is currently scheduled to begin on November 28, 1988, upon receipt of necessary materiel. The actual closure dates will be published in the Eleventh Coast Guard District Local Notice to Mariners. Good cause exists for making the regulation effective in less than 30 days after **Federal Register** publication. Bridge repairs are necessary and the contract for repairs has been issued and construction commenced October 1, 1988. Delaying the effective date of the regulation would be contrary to the public interest since immediate action is needed to keep the bridge in service.

Drafting Information

The drafters of this rule are Sharol E. Taylor, project officer, and Lieutenant Commander J.J. Jaskot, project attorney, Eleventh Coast Guard District Legal Office.

Economic Assessment and Certification

These temporary regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 CFR 11034; February 26, 1979). The economic impact has been found to be so minimal that a

full regulatory evaluation is unnecessary. The only impact would be on the larger vessels not able to pass under the closed bridge and they have an alternate channel available. Crowley Towing and Transportation Co. had objected to the six month closure originally requested, stating that use of the alternate channel would increase costs by $500,000. After meetings with Crowley and California Department of Transportation an alternative of only a three month closure was agreed on. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

Subpart B—Specific Requirements

2. Section 117.147 is amended by adding (a)(1) to read as follows:

§ 117.147 Cerritos Channel.

(a) * * *

(1) During the period October 1, 1988 to March 31, 1989, the draw of the Commodore Schuyler F. Heim Highway bridge, mile 4.5, at Long Beach, shall open on a signal if at least one hour notice is given. Openings will only be provided for public vessels of the United States, state or local vessels used for public safety, tugs with tows, and commercial vessels. During this period, a complete closure of the bridge in the down position for up to 90 days will be authorized; those dates will be advertised in the Eleventh Coast Guard District Local Notice to Mariners.

* * * * *

Dated: November 9, 1988.

J.W. Kime,

Rear Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

FR Doc. 88–26618 Filed 11–16–88; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6814]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

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

SUPPLEMENTARY INFORMATION:

The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is not available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Managment Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

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

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

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

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Tennessee	Tiptonville, town of, Lake County	470350	Aug. 11, 1975, Emerg.; Mar. 16, 1981, Reg.; Mar. 16, 1981, Susp.; Feb. 2, 1987, Rein.	Mar. 16, 1981.
Oklahoma	Hughes County, unincorporated areas	400467	Aug. 6, 1988, Emerg	Aug. 9, 1977.
Pennsylvania	Mount Joy, township of, Adams County	421257	July 24, 1975, Emerg.; July 4, 1988, Reg.; July 4, 1988, Susp.; Sept. 2, 1988, Rein.	July 4, 1988.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Iowa	Hornick, city of, Woodbury County	190291	July 8, 1975, Emerg.; Sept. 27, 1985, Reg.; June 3, 1988, Susp.; Sept. 5, 1988, Rein.	Sept. 27, 1985.
Louisiana	Iota, town of, Acadia Parish	220005	Jan. 21, 1975, Emerg.; July 18, 1985, Reg.; Aug. 16, 1988, Susp.; Sept. 6, 1988, Rein.	
Oklahoma	Forest Park, city of, Oklahoma County	400379	Mar. 16, 1983, Emerg.; July 3, 1985, Reg.; Aug. 4, 1988, Susp.; Sept. 6, 1988, Rein.	
Do	Reydon, town of, Roger Mills County	400322	Nov. 16, 1983, Emerg.; July 18, 1985, Reg.; Aug. 4, 1988, Susp.; Sept. 6, 1988, Rein.	
Do	Wright City, city of, McCurtain County	400109	Nov. 29, 1976, Emerg.; Aug. 4, 1988, Susp.; Sept. 6, 1988, Rein.	
Texas	Fruitvale, city of, Van Zandt County	481041	Jan. 12, 1982, Emerg.; Aug. 16, 1988, Reg.; Sept. 9, 1988, Rein.	July 19, 1976.
Louisiana	Port Vincent, village of, Livingston County	220119	May 17, 1977, Emerg.; Aug. 16, 1988, Reg.; Aug. 16, 1988, Susp.; Sept. 8, 1988, Rein.	Aug. 16, 1988.
Do	Ferriday, town of, Concordia County	220055	Apr. 28, 1973, Emerg.; Dec. 15, 1977, Reg.; May 4, 1988, Susp.; Sept. 8, 1988, Rein.	Dec. 15, 1977.
North Carolina	Washington Park, town of, Beaufort County	370268	Sept. 29, 1972, Emerg.; Nov. 22, 1976, Reg., Feb. 4, 1988, Susp.; Sept. 8, 1988, Rein.	Nov. 22, 1976.
Texas	Bowie County, unincorporated areas	481194	Feb. 17, 1981, Emerg.; Aug. 16, 1988, Reg.; Sept. 8, 1988, Rein.	Aug. 15, 1978.
Do	Gregg County, unincorporated areas	480261	Mar. 3, 1981, Emerg.; Aug. 16, 1988, Susp.; Sept 6, 1988, Rein.	
Tennessee	Dunlap, city of, Sequatchie County	470270	Sept. 29, 1975, Emerg.; Mar. 4, 1988, Reg.; Mar. 4, 1988, Susp.; Sept. 6, 1988, Rein.	Mar. 4, 1988.
Texas	Hawley, town of, Jones County	480885	Sept. 15, 1980, Emerg.; July 1, 1987, Reg.; Aug. 16, 1988, Susp.; Aug. 26, 1988, Rein.	July 1, 1987
New York	Hartsville, town of, Steuben County	361602	Mar. 18, 1980, Emerg.; Sept. 17, 1982, Reg.; May 17, 1988, Susp.; Sept. 9, 1988, Rein.	Oct. 17, 1982.
Iowa	Maquoketa, city of, Jackson County	190160	Sept. 10, 1976, Emerg.; Aug. 5, 1986, Reg.; June 3, 1988, Susp.; Sept. 12, 1988, Rein.	Aug. 5, 1986.
Arkansas	Damascus, town of, Faulkner County	050404	Dec. 28, 1982, Emerg.; July 3, 1985, Reg.; Aug. 16, 1988, Susp.; Sept. 12, 1988, Rein.	July 3, 1985.
New York	Ovid, town of, Seveca County	360754	Jan. 12, 1976, Emerg.; Jan. 15, 1988, Reg.; Jan. 15, 1988, Susp.; Sept. 14, 1988, Rein.	Jan. 15, 1988.
Do	Worcester, town of, Otsego County	361283	Jan. 26, 1977, Emerg.; June 1, 1988, Reg.; June 1, 1988, Susp.; Sept. 14, 1988, Rein.	June 1, 1988.
Texas	Browndell, town of, Jasper County	481542	Mar. 30, 1982, Emerg.; July 3, 1985, Reg.; Aug. 16, 1988, Susp.; Sept. 16, 1988, Rein.	July 3, 1985.
Do	Groveton, city of, Trinity County	481032	Dec. 29, 1980, Emerg.; June 19, 1985, Reg.; Aug. 16, 1988, Susp.; Sept. 16, 1988, Rein.	June 19, 1985
Arkansas	Cotton Plant, city of, Woodruff County	050231	Aug. 11, 1975, Emerg.; Oct. 12, 1982, Reg.; Aug. 16, 1988, Susp.; Sept. 16, 1988, Rein.	Oct. 12, 1982
Iowa	Oakland, city of, Pottawattamie County	190237	May 30, 1975, Emerg.; Aug. 3, 1981, Reg.; June 3, 1988, Susp.; Sept. 15, 1988, Rein.	Aug. 3, 1981
Georgia	Woodstock, city of, Bedford County	130264	Jan. 20, 1976, Emerg.; July 15, 1988, Reg.; Sept. 2, 1988, Susp.; Sept. 17, 1988, Rein.	Sept. 2, 1988
Pennsylvania	Bedford, Borough of Bedford County	421228	July 30, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp.; Sept. 16, 1988, Rein Sept. 2, 1988..	
Texas	Needville, town of, Fort Bend County	480820	Feb. 8, 1980, Emerg.; Dec. 20, 1977, Reg.; Sept. 2, 1988, Susp.; Sept. 16, 1988, Rein.	Dec. 20, 1977
Do	Martin County, unincorporated areas	481236	Sept. 22, 1988	
Tennessee	Huntsville, town of, Scott County	470397	Sept. 26, 1988	
Arizona	Pinetop-Lakeside, town of, Navajo County	040127	Sept. 22, 1988, Emerg.; Sept. 22, 1988, Reg	Aug. 16, 1988.
New York	[1]Birdsall, town of, Allegany County	361362	June 4, 1981, Emerg.; July 16, 1982, Reg	July 16, 1982.
Texas	Arcola, city of, Fort Bend County[2]	481619	Sept. 26, 1988, Emerg.; Sept. 26, 1988, Reg	Aug. 5, 1986.
California	Marina, city of, Monterey County	060727	Sept. 26, 1988, Emerg.; Sept. 26, 1988, Reg	Feb. 17, 1988.
Do	Los Gatos, city of, Santa Clara County	060343	June 12, 1975, Emerg.; Jan. 17, 1979, Reg.; Aug. 16, 1988, Susp.; Sept. 22, 1988, Rein.	Jan. 17, 1979.
Kentucky	Augusta, city of, Bracken County	210022	Feb. 26, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.; Sept. 21, 1988, Rein.	Sept. 16, 1988
Alabama	Tallassee, town of, Elmore/Tallassee Counties	010089	Sept. 5, 1975, Emerg.; Sept. 15, 1983, Reg.; Sept. 2, 1988, Susp.; Sept. 23, 1988, Rein.	Sept. 15, 1983
Pennsylvania	Price, township of, Monroe County	421984	Sept. 29, 1975, Emerg.; Sept. 2, 1988, Reg.; Sept. 2, 1988, Susp.; Sept. 16, 1988, Rein.	Sept. 2, 1988
Florida	Cross City, city of, Dixie County	120074	June 26, 1975, Emerg.; Sept. 16, 1982, Reg.; Feb. 17, 1988, Susp.; Sept. 27, 1988, Rein.	Sept. 16, 1982
Tennessee	Roane County, unincorporated areas	470267	Oct. 21, 1974, Emerg.; Sept. 30, 1980, Reg.; Sept. 2, 1988, Susp.; Sept. 27, 1988, Rein.	Sept. 30, 1980
California	Newman, city of, Stanislaus County	060388	Nov. 7, 1974, Emerg.; Sept. 29, 1978, Reg.; Aug. 16, 1988, Susp.; Sept. 29, 1988, Rein.	Sept. 29, 1978
New York	Huntington, town of, Suffolk County	360796	Nov. 1, 1973, Emerg.; Nov. 1, 1978, Reg.; Sept. 16, 1988, Susp.; Sept. 29, 1988, Rein.	Nov. 1, 1978
Missouri	Oronogo, city of, Jasper County	290185	May 6, 1975, Emerg.; Mar. 4, 1985, Reg.; Mar. 4, 1985, Susp.; Sept. 8, 1988, Rein.	Mar. 4, 1985
Idaho	Blaine County, unincorporated areas	165167	May 14, 1971, Emerg.; Mar. 16, 1981, Reg.; July 4, 1988, Susp.; Sept. 30, 1988, Rein.	Mar 16, 1981
Texas	San Diego, city of, Duval County	481199	Dec. 26, 1975, Emerg.; Mar. 1, 1987, Reg.; Sept. 2, 1988, Susp.; Oct. 3, 1988, Rein.	Mar. 1, 1987
Mississippi	Clark County, unincorporated areas	280220	Apr. 26, 1979, Emerg.; Aug. 16, 1988, Reg.; Aug. 16, 1988, Susp.; Oct. 3, 1988, Rein.	Aug. 16, 1988

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Michigan	Ely, township of, Marquette County	260449	Nov. 9, 1981, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp.; Oct. 3, 1988, Rein.	Sept. 1, 1988.
Texas	Nash, city of, Bowie County	480058	Apr. 7, 1975, Emerg.; June 21, 1977, Reg.; Sept. 2, 1988, Susp.; Oct. 5, 1988, Rein.	June 21, 1977.
Arkansas	Fulton, town of, Hempstead County	050086	Apr. 22, 1975, Emerg.; Aug. 3, 1982, Reg.; Aug. 16, 1988, Susp.; Oct. 5, 1988, Rein.	Aug. 3, 1982.
Do	Palestine, city of, St. Francis County	050359	June 17, 1975, Emerg.; Oct. 12, 1982, Reg.; Aug. 16, 1988, Susp.; Oct. 5, 1988, Rein.	Oct. 12, 1982.
Louisiana	Grand Cane, village of, DeSoto Parish	220291	Feb. 19, 1979, Emerg.; Mar. 23, 1982, Reg.; Aug. 16, 1988, Susp.; Oct. 5, 1988, Rein.	Mar. 23, 1982.
Do	Independence, town of, Tangipahoa Parish	220209	July 25, 1975, Emerg.; July 5, 1977, Reg.; Aug. 16, 1988, Susp.; Oct. 5, 1988, Rein.	July 5, 1977.
Do	Newellton, town of, Tensas Parish	220216	May 16, 1973, Emerg.; Mar. 16, 1982, Reg.; Aug. 16, 1988, Susp.; Oct. 5, 1988, Rein.	Mar. 16, 1982.
Do	Zwolle, town of, Sabine County	220353	Nov. 12, 1976, Emerg.; July 18, 1985, Reg.; Aug. 16, 1988, Susp.; Oct. 5, 1988, Rein.	July 18, 1985.
Georgia	Fayetteville, city of, Fayette County	130431	May 25, 1976, Emerg.; Aug. 4, 1988, Reg.; Aug. 4, 1988, Susp.; Oct. 5, 1988, Rein.	Aug. 4, 1988.
Mississippi	Georgetown, town of, Copiah County	280045	Oct. 16, 1979, Emerg.; Aug. 4, 1988, Reg.; Aug. 4, 1988, Susp.; Oct. 5, 1988, Rein.	Aug. 4, 1988.
Oklahoma	Bowlegs, town of, Seminole County	400468	May 20, 1980, Emerg.; Aug. 19, 1985, Reg.; Aug. 4, 1988, Susp.; Oct. 6, 1988, Rein.	Aug. 19, 1985.
Do	Cameron, town of, Leflore County	400271	Feb. 8, 1977, Emerg.; Apr. 19, 1983, Reg.; Aug. 4, 1988, Susp.; Oct. 6, 1988, Rein.	Apr. 19, 1983.
Do	Freedom, town of, Woods County	400227	Nov. 24, 1975, Emerg.; June 5, 1985, Reg.; Aug. 4, 1988, Susp.; Oct. 6, 1988, Rein.	May 5, 1985.
Do	McCurtain, city of, Haskell County	400397	Feb. 8, 1977, Emerg.; Aug. 19, 1985, Reg.; Aug. 4, 1988, Susp.; Oct. 6, 1988, Rein.	Aug. 19, 1985.
Do	Picher, city of, Ottawa County	400159	May 25, 1976, Emerg.; Sept. 21, 1982, Reg.; Aug. 4, 1988, Susp.; Oct. 6, 1988, Rein.	Sept. 21, 1982.
Do	Pond Creek, city of, Grant County	400433	Apr. 15, 1985, Emerg.; Mar. 1, 1987, Reg.; Aug. 4, 1988, Susp.; Oct. 6, 1988, Rein.	Mar. 1, 1987.
Do	Red Bird, town of, Wagoner County	400321	Oct. 21, 1976, Emerg.; Oct. 9, 1979, Reg.; Aug. 4, 1988, Susp.; Oct. 6, 1988, Rein.	Oct. 2, 1979.
Pennsylvania	Ross, township of, Monroe County	421895	June 1, 1976, Emerg.; Feb. 17, 1988, Reg.; Feb. 17, 1988, Susp.; Oct. 6, 1988, Rein.	Feb. 17, 1988.
New York	Gallatin, town of, Columbia County	361316	Dec. 8, 1975, Emerg.; Oct. 16, 1984, Reg.; Sept. 16, 1988, Susp.; Oct. 7, 1988, Rein.	Oct. 16, 1984.
Florida	Gilchrist County, unincorporated areas	120094	Sept. 3, 1975, Emerg.; Aug. 16, 1988, Reg.; Aug. 16, 1988, Susp.; Oct. 10, 1988, Rein.	Aug. 16, 1988.
Oklahoma	Brooksville, city of, Pottawatomie County	400469	Sept. 19, 1979, Emerg.; Aug. 19, 1985, Reg.; Aug. 4, 1988, Susp.; Oct. 10, 1988, Rein.	Aug. 19, 1985.
Pennsylvania	South Newton, township of, Cumberland County	421586	Apr. 25, 1977, Emerg.; Aug. 4, 1988, Reg.; Aug. 4, 1988, Susp.; Oct. 11, 1988, Rein.	Aug. 4, 1984.
Alabama	Dauphin Island, town of, Mobile County[3]	010418	Dec. 11, 1970, Emerg.; Dec. 11, 1970, Reg	
Missouri	Chesterfield, city of, St. Louis County[4]	290896	Sept. 3, 1971, Emerg.; Sept. 15, 1978, Reg	
Michigan	Union, township of, Isabella County	260812	Oct. 13, 1988	
Missouri	Iron Mountain Lake, city of, St. Francois County	290897	Oct. 13, 1988	
Oklahoma	Hoffman, town of, Okmulgee County	400285	Sept. 30, 1976, Emerg.; Aug. 5, 1985, Reg.; Aug. 4, 1988, Susp.; Oct. 13, 1988, Rein.	Aug. 5, 1985.
Do	Watts, town of, Adair County	400002	Nov. 14, 1975, Emerg.; Aug. 5, 1985, Reg.; Aug. 4, 1988, Susp., Oct. 13, 1988, Rein.	Aug. 5, 1985.
Wisconsin	Bayfield County, unincorporated areas	550539	June 6, 1974, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp.; Oct. 11, 1988, Rein.	Sept. 1, 1988.
New York	Grafton, town of, Rensselaer County	361150	Oct. 1, 1975, Emerg.; Oct. 13, 1978, Reg.; Sept. 16, 1988, Susp.; Oct. 13, 1988, Rein.	Oct. 13, 1978.
Ohio	Bettsville, village of, Seneca County	390500	Dec. 21, 1978, Emerg.; Sept. 30, 1988, Reg.; Sept. 30, 1988, Susp.; Oct. 14, 1988, Rein.	Sept. 30, 1988.
Pennsylvania	Liberty, township of, Adams County	421255	Nov. 13, 1975, Emerg.; July 4, 1988, Reg.; July 4, 1988, Susp.; Oct. 19, 1988, Rein.	July 4, 1988.
Iowa	Melrose, city of, Monroe County	190465	Sept. 16, 1981, Emerg.; July 2, 1987, Reg.; June 3, 1988, Susp.; Oct. 20, 1988, Rein.	July 2, 1987.
New York	Madison, town of, Madison County	361292	Oct. 26, 1976, Emerg.; Jan. 19, 1983, Reg.; Sept. 16, 1988, Susp.; Oct. 21, 1988, Rein.	Jan. 19, 1983.
Do	East Otto, town of, Cattaraugus County	360067	July 24, 1975, Emerg.; Apr. 20, 1984, Reg.; Sept. 16, 1988, Susp.; Oct. 21, 1988, Rein.	Apr. 20, 1984.
Idaho	Post Falls, city of, Kootenai County	160083	June 16, 1975, Emerg.; Feb. 17, 1982, Reg.; July 4, 1988, Susp.; Oct. 21, 1988, Rein.	Feb. 17, 1982.
Texas	Hudspeth County, unincorporated areas	480361	Dec. 19, 1977, Emerg.; Nov. 1, 1985, Reg.; Aug. 16, 1988, Susp.; Oct. 17, 1988, Rein.	Nov. 1, 1985.
Nebraska	Eustis, village of, Frontier County	310276	Oct. 24, 1988	Sept. 19, 1975.
Ohio	Cumberland, village of, Guernsey County	390824	Oct. 26, 1988	Sept. 15, 1978.
Do	Willshire, village of, Van Wert County	390867	Oct. 26, 1988	Oct. 20, 1978.
Do	Munroe Falls, village of, Summit County	390843	Oct. 26, 1988	Oct. 13, 1978.
Florida	Hernando County, unincorporated areas	120110	Aug. 27, 1974, Emerg.; Apr. 17, 1984, Reg.; Sept. 30, 1988, Susp.; Oct. 25, 1988, Rein.	Apr. 17, 1984.

[1] The Town of Birdsall, (Allegany County) New York has been participating in the NFIP under State regulation. However, effective September 1, 1988, State regulations were suspended. The Town of Birdsall will continue its participation in the NFIP based upon self-regulation.

[2] The City of Arcola has adopted Fort Bend County's FIRM dated August 5, 1986.

[3] The Town of Dauphin Island, is a newly incorporated community eligible October 13, 1988. It was participating in the Regular Program as an unincorporated area of Mobile County. The Town has adopted the county's FIRM for floodplain management and insurance purposes.

[1] The Town of Chesterfield is a newly incorporated community eligible October 13, 1988. It was participating in the Regular Program as an unincorporated area of St. Louis County. The Town has adopted the county's FIRM for floodplain management and insurance purposes.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Region II:				
New York	Carlisle, town of, Schoharie County	361193	Sept. 1, 1988 Suspension Withdrawan	Sept. 1, 1988
Region V:				
Indiana	White County, unincorporated areas	180447	do	Do.
Do	Attica, city of, Fountain County	180065	do	Do.
Do	Austin, town of, Scott County	180233	do	Do.
Do	Covington, city of, Fountain County	180066	do	Do.
Do	Tipton County, unincorporated areas	180475	do	Do.
Minnesota	Todd County, unincorporated areas	270551	do	Do.
Do	Douglas County, unincorporated areas	270623	do	Do.
Do	Martin County, unincorporated areas	270641	do	Do.
Do	Meeker County, unincorporated areas	270280	do	Do.
Wisconsin	Adams, city of, Adams County	550002	do	Do.
Do	Neskoro, village of, Marquette County	550267	do	Do.
Do	Rosholt, village of, Portage County	550377	do	Do.
Region VII:				
Nebraska	Bayard, city of, Morrill County	310347	do	Do.
Region I:				
Regular Program.				
Connecticut.	Canaan, town of Litchfield County	090044	Sept. 2, 1988, Suspension Withdrawn	Sept. 2, 1988
Maine	Hallowell, town of, Kennebec County	230069	do	Do.
Region II:				
New York	Union Vale, town of, Dutchess County	361146	do	Do.
Region III:				
Pennsylvania.	Barrett, township of, Monroe County	421884	do	Do.
Do	Carroll Valley, borough of, Adams County	422635	do	Do.
Do	Rockland, township of, Berks County	421098	do	Do.
Region IV:				
North Carolina.	Mitchell County, unincorporated areas	370161	do	Do.
Tennessee	Lexington, city of, Henderson County	470089	do	Do.
Region V:				
Illinois	Elkhart, village of, Logan County	171010	do	Do.
Do	Greenview, village of, Menard County	170754	do	Do.
Do	Lincoln, city of, Logan County	170428	do	Do.
Do	Logan County, unincorporated areas	170427	do	Do.
Do	Menard County, unincorporated areas	170505	do	Do.
Do	Morton, village of, Tazewell County	170652	do	Do.
Minnesota	Mahnomen, city of, Mahnomen County	270266	do	Do.
Region III:				
Minimals.				
West Virginia.	Pennsboro, city of, Ritchie County	540182	Sept. 16, 1988, Suspension Withdrawn	Sept. 16, 1988
Region V:				
Indiana	Huntingburg, city of, Duboise County	180362	do	Do.
Michigan	Cannon, township of, Kent County	260734	do	Do.
Wisconsin	Brandon, village of, Fond du Lac County	550132	do	Do.
Do	Pigeon Falls, village of, Trempealeau County	550446	do	Do.
Region V:				
Michigan	Colon, township of, St. Joseph County	260510	do	Do.
Do	Colon, village of, St. Joseph County	260511	do	Do.
Minnesota	Stearns County, unincorporated areas	270546	do	Do.
Ohio	Zanesville, city of, Muskingum County	390427	do	Do.
Region VI:				
Arkansas	White Hall, city of, Jefferson County	050375	do	Do.
Region VIII:				
North Dakota.	Valley City, city of, Barnes County	380002	do	Do.
Arizona	Mohave County, unincorporated areas	040058	do	Do.
California	Redland, city of, San Bernardino County	060279	do	Do.
Hawaii	Hawaii County, unincorporated areas	155166	do	Do.
Region V:				
Minimal Conversions.				
Illinois	Monmouth, city of, Warren County	170676	Sept. 30, 1988, Suspension Withdrawn	Sept. 30, 1988
Michigan	Bruce, township of, Chippewa County	260375	do	Do.
Do	Centerville, village of, St. Joseph County	260509	do	Do.
Do	Clark, township of, Mackinac County	260759	do	Do.
Do	Croton, township of, Newaygo County	260468	do	Do.
Do	Elk Rapids, village of, Antrim County	260699	do	Do.
Do	Evart, township of, Osceola County	260810	do	Do.
Do	Fabius, township of, Fabius County	260781	do	Do.
Do	Greenbush, township of, Alcona County	260001	do	Do.
Do	Houghton, township of, Keweenaw County	260799	do	Do.
Do	Hudson, township of, Mackinac County	260807	do	Do.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Do.	Long Lake, township of, Grand Traverse County	260782	do	Do.
Do.	Marquette, city of, Marquette County	260716	do	Do.
Do.	Nahma, township of, Delta County	260688	do	Do.
Do.	Norvell, township of, Jackson County	260424	do	Do.
Do.	Osceola, township of, Osceola County	260797	do	Do.
Do.	Otsego, township of, Allegan County	260740	do	Do.
Do.	Raber, township of, Chippewa County	260786	do	Do.
Do.	Reynolds, township of, Montcalm County	260743	do	Do.
Do.	Rubicon, township of, Huron County	260789	do	Do.
Do.	Stronach, township of, Manistee County	260801	do	Do.
Do.	Turner, village of, Arenac County	260550	do	Do.
Do.	Union, township of, Grand Traverse County	260805	do	Do.
Ohio	Greenwich, village of, Huron County	390282	do	Do.
Do.	Russia, village of, Shelby County	390880	do	Do.
Wisconsin	Birchwood, village of, Washburn County	550574	do	Do.
Do.	Edgar, village of, Marathon County	550248	do	Do.
Do.	Oakfield, village of, Fond du Lac County	550139	do	Do.
Do.	Plain, village of, Sauk County	550440	do	Do.
Do.	Reedsville, village of, Manitowoc County	550242	do	Do.
Do.	Wild Rose, village of, Waushara County	550507	do	Do.
Do.	Wonewoc, village of, Juneau County	550208	do	Do.
Region X:				
Washington.	Lind, town of, Adams County	530003	do	Do.
Do.	Washtucna, town of, Adams County	530006	do	Do.
Region I: Regular Conversions.				
Maine	Damariscotta, town of, Lincoln County	230216	do	Do.
Region II:				
New York	Seneca Nation of Indians, Cattaraugus County	361591	do	Do.
Region III:				
Pennsylvania.	Albany, township of, Berks County	421046	do	Do.
Do.	Damascus, township of, Wayne County	422163	do	Do.
Maryland	Baltimore, city of	240087	do	Do.
Pennsylvania.	Neville, township of, Allegheny County	425385	do	Do.
Virginia	Big Stone Gap, town of, Wise County	515521	do	Do.
Pennsylvania.	Liberty, township of, Bedford County	421343	do	Do.
Do.	Washington, township of, Northampton County	421156	do	Do.
Region IV:				
Alabama	Choctaw County, unincorporated areas	010310	do	Do.
Georgia	Brantley County, unincorporated areas	130012	do	Do.
Do.	Wayne County, unincorporated areas	130417	do	Do.
Kentucky	Berea, city of, Madison County	210156	do	Do.
North Carolina.	Stokes County, unincorporated areas	370362	do	Do.
Do.	Greensboro, city of, Guilford County	375351	do	Do.
South Carolina.	Eastover, town of, Richland County	450173	do	Do.
Do.	Myrtle Beach, city of, Horry County	450109	do	Do.
Region V:				
Illinois	Iroquois County, unincorporated areas	170731	do	Do.
Do.	Morrison, city of, Whiteside County	170691	do	Do.
Do.	Woodland, village of, Iroquois County	170819	do	Do.
Ohio	Middlefield, village of, Geauga County	390192	do	Do.
Do.	Paulding, village of, Paulding County	390438	do	Do.
Illinois	Watseka, city of, Iroquois County	170297	do	Do.
Region VI:				
Arkansas	Horseshoe Bend, city of	050256	do	Do.
Louisiana	Livingston Parish	220113	do	Do.
New Mexico.	Moriarty, city of, Torrance County	350083	do	Do.
Texas	Dayton, city of, Liberty County	480440	do	Do.
Do.	Roscoe, city of, Nolan County	481558	do	Do.
Oklahoma	Miami, city of, Ottawa County	400157	do	Do.
Region VIII:				
Colorado	Teller County, unincorporated areas	080173	do	Do.
Do.	Woodland Park, town of, Teller County	080175	do	Do.
Do.	Westminster, city of, Adams and Jefferson Counties	080008	do	Do.
South Dakota.	Aberdeen, city of, Brown County	460007	do	Do.
Region IX:				
California	Desert Hot Springs, city of, Riverside County	060251	do	Do.
Region X:				
Idaho	Mountain Home, city of, Elmore County	160058	do	Do.
Do.	Soda Springs, city of, Caribou County	160193	do	Do.
Oregon	Troutdale, city of, Multnomah County	410184	do	Do.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Washington.	Almira, town of, Lincoln County	530107	do	Do.
Do.	Ephrata, city of, Grant County	530051	do	Do.
Do.	Lincoln County, unincorporated areas	530106	do	Do.
Do.	Sprague, city of, Lincoln County	530113	do	Do.
Do.	Wilbur, town of, Lincoln County	530114	do	Do.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

Issued: November 10, 1988.

[FR Doc. 88-26580 Filed 11-16-88; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13 and 80

[Gen. Docket No. 88-37; FCC 88-334]

Ship Radio Officer Qualifying Service Endorsements

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The amended rules simplify both the substantive requirements and the documentation necessary for issuance of six months service endorsements to radio officers. Radio officers are required to have such an endorsement to serve as the sole radiotelegraph operator on board certain large ocean-going ships.

EFFECTIVE DATE: December 15, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, Washington, DC 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order (R&O)* adopted October 14, 1988, and released October 31, 1988. The full text of this Commission document and the amended rules are available for inspection and copying during normal hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The full text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street NW., Washington, DC 20037.

Summary of Report and Order

These rule amendments concern the criteria used to determine a radio officer's eligibility for a six months service endorsement. A cargo ship equipped with an auto alarm is permitted to carry a single radio officer who has at least six months previous service as a radio officer on board a United States ship. The amended Rules simplify the requirements and documentation needed to determine qualifying service while adhering to the letter and intent of the Communications Act. The amended Rules allow time spent on board a ship performing maintenance duties, training, operating radiotelephone stations and time in port during normal ship operations to be included within the six months service period. Additionally, experience on board U.S. Government ships would qualify for the six months service endorsement. The *R&O* also propose to allow vessel owners, operators, captains and masters to certify that the applicant has successfully completed the six months qualifying service requirements. Further, the definition of "radio officer" is changed to be consistent with the Communications Act.

Ordering Clauses

We certify that section 605(b) of the Regulatory Flexibility Act of 1980, (Pub. L. 96-354), 5 U.S.C. 605(b) does not apply to these Rules because these Rules will not have a significant economic impact on a substantial number of small entities. The Rules relax the six months qualifying service certification procedures applicable to radiotelegraph operators seeking to serve as radio officers on large ocean-going ships. Since 1982 the Commission has issued 50 six month endorsements.

The rule amendments adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to decrease the information collection the Commission imposes on the public. This proposed reduction in information collection burden is subject to approval by the Office of Management and Budget as prescribed by the Act. The authority for this action is contained in 47 U.S.C. 154(i) and 303 (l) and (r).

It is ordered, That Parts 13 and 80 are amended as shown at the end of this document.

It is further ordered, That these rule amendments shall become effective as indicated in the **"EFFECTIVE DATE"** paragraph of this document.

It is further ordered, That this proceeding is terminated.

List of Subjects

47 CFR Part 13

Commercial radio operators.

47 CFR Part 80

Maritime radio services, Ship stations.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

Amended Rules

Parts 13 and 80 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 13—COMMERCIAL RADIO OPERATORS

1. The authority citation for Part 13 continues to read as follows:

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

2. In § 13.12, paragraphs (b) (2) and (3) are revised to read as follows:

§ 13.12 Additional requirements for first class radiotelegraph operator's certificate and six months service endorsements.

* * * * *

(b) * * *

(2) To qualify for the six months service endorsement the applicant must show that:

(i) The applicant was employed as a radio operator on board a ship or ships of the United States for a period totaling at least six months;

(ii) The ships were equipped with a radio station complying with the provisions of Part II of Title III of the Communications Act, or the ships were owned and operated by the U.S. Government, for example the U.S. Navy of U.S. Coast Guard, and equipped with radio stations;

(iii) The ships were in service during the applicable six month period; however, any portion of single in port periods that exceed seven days must be excluded from the qualifying six months period;

(iv) The applicant held a first or second class radiotelegraph operator's certificate issued by the FCC during this entire six month qualifying period; and

(v) The applicant holds a radio officer's license issued by the U.S. Coast Guard at the time the six month endorsement is requested.

(3) To satisfy the showing required in paragraph (b)(2) of this section, the applicant must submit documents signed by the ship station licensees, masters or commanding officers of U.S. ships stating that the applicant performed the duties of a radio operator in a satisfactory manner under each of the conditions listed in paragraph (b)(2) of this section.

* * * * *

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. Section 80.157 is revised to read as follows:

§ 80.157 Radio officer defined.

A "radio officer" means a person holding a first or second class radiotelegraph operator's certificate issued by the Commission who is employed to operate a ship radio station in compliance with Part II of Title III of the Communications Act. Such a person is also required to be licensed as a "radio officer" by the U.S. Coast Guard when employed to operate a ship radio*telegraph* station.

[FR Doc. 88–26457 Filed 11–16–88; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 201, 215, 216, 242, 245, 247, and 253

[Defense Acquisition Circular (DAC) 88–1]

Department of Defense Federal Acquisition Regulation Supplement; Regulatory and Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 88–1 amends the DoD FAR Supplement (DFARS) with respect to deviations from the FAR and the DFARS; acquisition streamlining, best and final offers (BAFOs); production special tooling and production special test equipment (PST/PSTE); thresholds—fixed-price contracts; Contractor Insurance/Pension Review (CIPR); accountability for Government property; computer-generated Standard Forms and DD Forms; use of DD Forms; DD Forms 1653, 1654, 1921 and 1921–1; updated DD Forms; editorial corrections; and changes to DFARS (DAR) Supplement No. 1. This DAC includes an information item regarding the 1988 edition of the DFARS.

EFFECTIVE DATE: November 1, 1988, unless otherwise noted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301–3062, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86–1 through 86–5. Amendments made by DAC 86–6 through 86–16 were published in the Federal Register at 53 FR 38171, Sept. 29, 1988 and will be included in the Oct. 1, 1988 revision of the CFR.

B. Public Comments

DAC 88–1, Item I

This item is for informational purposes and does not contain revisions to the DFARS.

DAC 88–1, Items II, IV, and VI Through XV

Public comments were not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88–610D.

DAC 88–1, Item III

A proposed rule was published in the Federal Register on January 28, 1988 (53 FR 2514) and public comments were solicited. Comments were considered in formulating this final rule.

DAC 88–1, Item V

Public comments were solicited in an interim rule published on April 5, 1988 (53 FR 11073). Comments were considered in formulating this final rule.

C. Regulatory Flexibility Act

DAC 88–1, Items I, II, IV, VI, VII, and IX Through XV

Comments were not solicited with respect to these items. The Regulatory Flexibility Act does not apply.

DAC 88–1, Item III

This rule is not expected 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.) because the program primarily involves the engineering and design of systems and equipment which ordinarily is not accomplished by small businesses.

DAC 88–1, Item V

The Department of Defense certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because small entities are not usually involved with Government prime contracts which require PST or PSTE with a cost in excess of $1 million.

DAC 88–1, Item VIII

The Department of Defense certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. because deleting the requirement for contractors to include additions and deletions of military property will not require contractors to modify existing reporting or recording systems.

D. Paperwork Reduction Act

DAC 88–1, Items I through VII, and IX Through XV

The Paperwork Reduction Act does not apply because these rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

DAC 88–1, Item VIII

On October 8, 1987, the Office of Management and Budget approved a paperwork burden package for 434,350 hours which included a burden of 38,000 hours for the reporting requirement

generated as a result of the final rule published at 52 FR 39535, dated October 22, 1987 for DAR Case 87–28. The DAR Council realizes that that estimate and subsequent approval was low. The changes in this final rule will reduce the burden on contractors to be more in line with the hours approved for OMB Control Number 0704–0246 on October 8, 1987. Therefore, a new burden package has not been prepared and submitted to OMB for their review and approval.

List of Subjects in 48 CFR Parts 201, 215, 216, 242, 247, and 253

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[Defense Acquisition Circular No. 88–1]

November 1, 1988.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective November 1, 1988.

This DAC, Number 88–1, is the first DAC issued to the 1988 edition of the DoD FAR Supplement (DFARS) and will be filed in that edition. The 1988 edition of the DFARS will be distributed on or about 28 October 1988.

Defense Acquisition Circular (DAC) 88–1 amends the DoD Federal Acquisition Regulation Supplement (DFARS) 1988 Edition and prescribes procedures to be followed. The following is a summary of the amendments and procedures.

Item I—1988 Edition of the DoD FAR Supplement (DFARS)

DAC #86–16, Item I, referenced publication of the 1988 edition of the DFARS. The projected date for distribution of the new edition is October 28, 1988. This DAC #88–1 is the first DAC issued to the new edition, and replacement pages contained herein should be filed with the 1988 edition.

Item II—Deviations from the FAR and the DFARS

DFARS 201.403(a) is revised to delete the requirement for written notice of individual deviations to be furnished to the Members of the DAR Council.

Item III—Acquisition Streamlining

Revisions are made to DFARS 207, 210, and 215 to add coverage to implement DoD Directive 5000.43, Acquisition Streamlining. Acquisition streamlining is any effort related to ensuring that only necessary and cost-effective requirements are included in solicitations and contracts. It applies not only to the design, development, and production of new systems, but also to modifications of existing systems that involve the redesign of systems or subsystems. As related clause is added at 252.210–7005. A final rule was published in the **Federal Register** on September 12, 1988 (53 FR 35201).

Item IV—Best and Final Offers (BAFOs)

DFARS 215.611 is added with respect to Best and Final Offers (BAFOs). This coverage imposes new restrictions and approvals for the use of second and subsequent BAFOs and ensures that multiple BAFOs are only used when necessary in the acquisition process and then under specific management controls. A final rule was published in the **Federal Register** on August 26, 1988 (53 FR 32620).

Item V—Production Special Tooling and Production Special Test Equipment (PST/PSTE)

Section 810 of the 1988 DoD Authorization Act (Pub. L. 100–180) revised previous legislative requirements (Pub. L. 99–500) regarding the reimbursement of defense contractors for the costs of production special tooling (PST) and production special test equipment (PSTE). While Pub. L. 99–500 had restricted reimbursement to no more than 50% of the acquisition cost for PST/PSTE on the instant contract, Pub. L. 100–180 now provides that at least 50% of the total amount negotiated for PST/PSTE will be reimbursed on the instant contract. DFARS 215.873 has been revised accordingly. An interim rule with request for comments was published in the **Federal Register** on April 5, 1988 (53 FR 11073). Comments were considered in developing this final rule.

Item VI—Thresholds—Fixed-Price Contracts

The thresholds at DFARS 216.203–4 (a) and (b) are increased from $5,000 to "the small purchase threshold in FAR Part 13".

Item VII—Contractor Insurance/ Pension Review (CIPR)

DFARS Subpart 242.73 is added to provide procedural guidance to DoD personnel for conducting a Contractor Insurance/Pension Review (CIPR). The new coverage includes responsibilities for scheduling and performing CIPRs and issuing reports.

Item VIII—Accountability for Government Property

DFARS 245.505–14 is revised to require contractors to report only the fiscal year ending and beginning balances of military property. Additions and deletions made during the year are no longer required.

Item IX—Computer-Generated Standard Forms and DD Forms

DFARS Subpart 253.1 is revised to state that DoD contracting offices may computer-generate Standard Forms and DD Forms provided there is no change to the content or sequence of the data elements and the form contains the form number and edition date.

Item X—DAR Section XVI—Use of DD Forms

It has been determined not to update DAR Section XVI. Accordingly, DFARS 253.270 is deleted.

Item XI—DD Forms 1653 and 1654 (Transportation)

DD Forms 1653 and 1654 have been revised. The title of DD Form 1653 has been changed to "Transportation Data for Solicitations", and the form is updated to coincide with FAR terminology and to delete obsolete references. DD Form 1654 has been revised to provide for the bid opening or proposal closing date, whether FMS is involved, and buyer's name and location, and the tariff authority from which rates are obtained. User of the DD Form 1654 has been made optional. DFARS 247.372 and 247.373 are revised to reflect these changes. Copies of the revised forms are included in this DAC.

Note.—Department of Defense Forms are not published in the **Federal Register** or the Code of Federal Regulations. A list containing DD Form Numbers and Titles follows section 253.270.

Item XII—DD Forms 1921 and 1921–1

DFARS 215.804–6(b)(2)(i) prescribes the use of DD Forms 1921 and 1921–1 to support the SF 1411. DD Forms 1921 and 1921–1 are added to Part 253. (See Note following Item XI regarding publication of DD Forms.)

Item XIII—Updated DD Forms

Updated DD Forms 375–2 and 1664 are included in this DAC to replace former editions of the forms. (See Note following Item XI regarding publication of DD Forms.)

Item XIV—Editorial Corrections

The following editorial corrections are made:

(a) DFARS 215.811–78(b)(8)(i) is revised to change the referenced paragraph to read (4) instead of (6).

(b) DFARS 245.608–70(b), (c), (d), (e), and (f) are revised to reflect the correct address and organizational change for

the Defense Reutilization and Marketing Service.

Item XV—Revisions to DFARS (DAR) Supplement No. 1

The changes made to DAR Supplement No. 1, Contractor Purchasing System Review (CPSR) Program (DARS No. 1) (31 Mar 82), are interim changes to reflect the need for prime contractors to conduct market surveys as a means to stimulate subcontract competition. A complete update of the Supplement is in process.

Note.—DAR Supplement No. 1 is not codified in the Code of Federal Regulations, and it is not part of the subscription to the DoD FAR Supplement. It must be purchased separately from the Government Printing Office.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 201, 215, 216, 242, 245, 247, and 253 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 201.403 is amended by revising paragraph (a) to read as follows:

201.403 Individual deviations.

(a) Except where elsewhere prohibited, deviations from the FAR or this supplement or a Department of Defense Directive which affect only one contract or procurement may be made or authorized in accordance with Departmental procedures. A copy shall be furnished to: The Deputy Assistant Secretary of Defense (Procurement), OASD (P&L) Attention: DAR Council, Washington, DC 20301–3062.

(b) * * *

PART 215—CONTRACTING BY NEGOTIATION

215.611 [Amended]

3. Section 215.611 is amended by substituting in the first sentence of paragraph (c) (S–72) between the word "and" and the word "under" the word "recorded" in lieu of the word "documented".

215.811–78 [Amended]

4. Section 215.811–78 is amended by substituting in the first sentence of paragraph (b)(8) in the referenced paragraph in parentheses the number "(6)" in lieu of the number "(4)".

5. The interim rule published on April 5, 1988 (53 FR 11073) is adopted as final with the following changes:

6. Section 215.873 is revised to read as follows:

215.873 Production Special Tooling and Production Special Test Equipment (PST/PSTE).

(a) *General.* (1) Pursuant to 10 U.S.C. 2329, when a contractor, in order to perform a production contract, is required to acquire or fabricate production special tooling (PST) and production special test equipment (PSTE) at a total cost to a contractor of $1 million or more, the contracting officer shall comply with the procedures in paragraph (c) below, unless one of the exceptions in paragraph (d) below applies.

(2) When a contractor, in order to perform a production contract, is required to acquire or fabricate PST and PSTE at a total cost to the contractor of less than $1 million, the instant contract will generally provide for full payment.

(b) *Definitions.* (1) "Production special tooling" and "production special test equipment", as used in this subpart, are those subsets of "special tooling" and "special test equipment" (as defined in FAR 45.101) that support production rates and quantities.

(2) "Maximum amount", as used in this subpart, means the total amount to be paid to the contractor on the instant and any future contracts as a direct cost for the PST and PSTE to be acquired or fabricated to perform the instant contract as negotiated with the contractor. The total amount can be a specific dollar amount or dollar ceiling

(c) *Procedures.* (1) When the criteria specified in paragraph (a) above apply, the contract shall include a special provision negotiated between the contractor and the Government, which specifies, as a minimum, the following:

(i) A listing of, or reference to a listing of, the PST and PSTE which the contractor will acquire or fabricate to perform the contract;

(ii) The maximum amount the contractor may be paid on the instant and future contracts for the PST and PSTE;

(iii) The amount to be paid to the contractor on the instant contract for the PST and PSTE being acquired or fabricated;

(iv) An amortization schedule for the payment, subject to availability of funds, of the balance of the amount specified in paragraph (c)(1)(ii) above;

(v) That, in the event the contract or program is terminated before the maximum amount specified for the PST and PSTE has been paid, for reasons other than the contractor's failure to perform, the contractor shall be paid the balance of the maximum amount, or the actual direct costs incurred, whichever is less, subject to the availability of funds;

(vi) That costs incurred by the contractor for the acquisition and fabrication of the PST and PSTE shall be treated as direct changes under the instant and future contracts. If the instant contract does not provide for payment of the maximum amount in paragraph (c)(1)(ii) above, the balance of these costs shall not be shifted, assigned to other programs, or charged to indirect cost pools;

(vii) The respective parties' rights to title.

(2) Where it is anticipated that future contracts will be awarded to the same contractor for the same or similar items for which the contractor will be able to use the PST and PSTE, the instant contract will provide for payment of at least 50 percent of the maximum amount specified for the PST and PSTE, except when the Head of the Agency determines, in advance of contract award, that the use of a percentage less than 50 percent is in the best interests of the Government and the use of that lower percentage will not cause an undue financial burden on the contractor.

(3) Whenever it is anticipated that no future contracts will be awarded as provided in paragraph (c)(2) above, the instant contract will provide for full payment of the maximum amount specified for the PST and PSTE.

(4) When a contract does not provide for payment of the maximum amount specified for the PST and PSTE under the instant contract and an amortization schedule is established in accordance with paragraph (c)(1)(iv) above, the contracting officer shall make the following adjustments for calculating profit objectives and facilities capital cost of money on the instant and future contracts:

(i) The contracting officer shall separately calculate a cost of money amount for the unamortized portion of PST and PSTE costs by multiplying the unamortized portion of the PST and PSTE costs by the current cost of money rate by the period of time (years or portions thereof) until the next contract is awarded for which charges for the PST and PSTE will be reimbursed. This cost of money amount computed above shall be included in the price of the instant contract. When the weighted guidelines method is used, this amount shall not be included on the DD Form

1861, but will be added to Line 32 of the DD Form 1547.

(ii) When establishing a profit objective using DFARS Subpart 215.9, only those PST and PSTE costs being priced for payment under the instant contract action will be profit-bearing on that contract. These costs shall be included as part of the cost base for performance risk and contract type risk (including working capital adjustment). The unamortized balance of the PST and PSTE costs shall not be profit-bearing on the instant contract, nor shall they be included in the facilities capital employed base.

(iii) For future contract actions on which the unamortized balance of the PST and PSTE costs (or portions thereof) will be paid thereunder, cost of money and profit shall be calculated in accordance with the procedures of paragraphs (c)(4) (i) and (ii) above.

(d) *Exceptions.* The procedures set forth in paragraph (c) above do not apply to contracts:

(1) Where the PST and PSTE will be used by the contractor solely for final production acceptance testing;

(2) Awarded as a result of sealed bidding procedures contained in FAR Part 14;

(3) Where prices are, or are based on, established catalog or established market prices of commercial items sold in substantial quantities to the general public; or

(4) Where price is set by law or regulation.

PART 216—TYPES OF CONTRACTS

216.203-4 [Amended]

7. Section 216.203-4 is amended by substituting in paragraph (a) and in paragraph (b) the words "the small purchase threshold in FAR Part 13" in lieu of the dollar figure "$5,000" in both places.

PART 242—CONTRACT ADMINISTRATION

8. A new subpart 242.73 is added to read as follows:

Subpart 242.73—Contract Insurance/Pension Review (CIPR)

Secs.

Subpart 242.73—Contract Insurance/Pension Review (CIPR)

242.7300 Objective.

(a) This subpart sets forth the requirements for conducting a Contractor Insurance/Pension Review (CIPR). A CIPR is an in-death evaluation of a contractor's insurance program, pension plan(s), other deferred compensation plans, and related policies, procedures, practices, and costs. The Defense Logistics Agency (DLA) is the designated Department of Defense Executive Agency for CIPRs. The Administrative Contracting Officer (ACO) is responsible for determining the reasonableness of insurance/pension costs to be considered on government contracts. Insurance/Pension Specialists (I/PSs) assigned to certain DLA Defense Contract Administration Services Regions (DCASRs) are responsible for assisting contracting officers in making these determinations by conducting CIPRs.

(b) The CIPR should be the only formal review of a contractor's insurance/pension program, except for periodic tests of the system performed by contract administration and DCAA, or any special reviews which the ACO may initiate. If any organization believes that additional reviews of the contractor's insurance/pension program should be performed, that request should be conveyed to the ACO. The ACO should perform the review as part of an ACO-initiated special review, or, if possible, as part of the CIPR if one is scheduled to be conducted in the near future.

242.7301 Requirements.

(a) Initial and biennial CIPRs will be performed at contractor locations that have actual or anticipated annual sales to the Government of $10 million or more on negotiated prime contracts, contract modifications, and subcontracts under Government prime contracts. However, it may be appropriate to conduct CIPRs on a more or less frequent basis under certain circumstances, e.g., prior to a major contract award, in conjunction with in-depth overhead reviews or subsequent to mergers or divestitures.

(b) Special reviews may be performed on selected insurance and pension elements at those contractors that do not meet the criteria for an initial review, but where significant problems have been identified. Also, these reviews may be performed to follow-up contractor implementation of recommendations from prior reviews and to verify Government recovery of credits.

(c) During the period of time between team reviews, the Government may perform any additional review necessary to establish the validity of Government costs.

242.7302 Responsibilities.

(a) The ACO is responsible for:

(1) Determining the need for a CIPR in accordance with sections 242.7300 and 242.7301.

(2) Requesting and scheduling the reviews with the appropriate DLA activity.

(3) Notifying the contractor of the proposed date, purpose of the CIPR, and obtaining from the contractor information needed by the I/PS.

(4) Advising the contractor of the results of the CIPR after receipt of the approved CIPR report.

(5) Providing other interested contracting officers copies of letters to the contractor or reports detailing the results of the CIPR.

(6) Advising the contractor that any significant changes in insurance/pension plans must be submitted to the ACO for review and acceptance prior to making the changes.

(7) Assuring adequate follow-up on all CIPR recommendations.

(b) DLA is responsible for:

(1) Preparing and maintaining the schedule of CIPRs to be performed during the next 12 months and providing the Military Departments and DCAA a copy of the schedule.

(2) Heading the team that conducts the review.

(3) Reviewing the documentation and ensuring that documentation (e.g., CIPR work papers and files) is complete.

(4) Reviewing and approving all CIPR reports.

(5) Preparing and distributing the final CIPR reports. In the event there is a discrepancy between the audit report and the draft CIPR report, every effort will be made to resolve such discrepancy before a final CIPR report is issued to the contracting officer.

(6) Providing the final audit report as an attachment to the CIPR report.

(7) Preparing the draft letter for the contracting officer's use in notifying the contractor of CIPR results.

(8) Advising the ACO and other DCASRs or Military Department representatives concerning any insurance/pension matters when requested.

(c) The Defense Contract Audit Agency (DCAA) is responsible for:

(1) Participating as a member of the CIPR team.

(2) Submitting information and advice to the team based on DCAA's analysis of the contractor's books, accounting records and procedures or other related data.

(3) Issuing an audit report to the CIPR Team Captain for incorporation into the final CIPR report.

PART 245—GOVERNMENT PROPERTY

245.505–14 [Amended]

9. Section 245.505–14 is amended by removing paragraph (a)(3)(vii); and by substituting at the end of paragraph (a)(3)(vi) a period in lieu of a semi-colon.

245.607–72 [Amended]

10. Section 245.607–72 is amended by substituting in paragraph (e) the address "Defense Reutilization and Marketing Service, ATTN: DRMS–OCR, 74 N. Washington Avenue, Battle Creek, Michigan 49017–3092" in lieu of the address "Defense Property Disposal Service, DPDS–R, Federal Center, Battle Creek, Michigan 49016".

245.608–70 [Amended]

11. Section 245.608–70 is amended by substituting at the end of paragraph (b) before the word "and" the words "Region—Battle Creek (DRMR–Battle Creek)" in lieu of the words "Region-Memphis (DRMR-Memphis"; by substituting at the beginning of paragraph (c) the words "DRMR-Battle Creek" in lieu of the words "DRMR-Memphis"; by substituting at the beginning of the third sentence of paragraph (d) the words "DRMR-Battle Creek" in lieu of the words "DRMR-Memphis"; by substituting at the beginning of paragraph (e) the words "DRMR-Battle Creek" in lieu or "DRMR-Memphis"; by substituting in the second and third sentences of paragraph (e) the words "DRMR-Battle Creek" in lieu of the words "DRMR-Memphis" in both places; and by substituting in paragraph (f) the words "DRMR-Battle Creek" in lieu of the words "DRMR-Memphis".

245.610–1 [Amended]

12. Section 245.610–1 is amended by substituting in the second sentence of paragraph (a)(1)(viii) the address "Defense Reutilization and Marketing Service, ATTN: DRMS–OCR, 74 N. Washington Avenue, Battle Creek, Michigan 49017–3092" in lieu of the address "Defense Property Disposal Service (DPDS–R), Federal Center, Battle Creek, Michigan 49016."

PART 247—TRANSPORTATION

247.372 [Amended]

13. Section 247.372 is amended by changing the title to read "DD Form 1653 (JUN 88), Transportation Data for Solicitations" in lieu of "DD Form 1653 (1 MAR 68), Transportation Data for IFBs and RFPs."

247.373 [Amended]

14. Section 247.373 is amended by changing the date in the title to read "(JUL 88)" in lieu of "(1 MAR 68)"; by substituting in the first sentence the word "allows" in lieu of the word "permits"; and by adding a sentence at the end of the section to read: "Use of the DD Form is optional."

PART 253—FORMS

253.105 [Added]

15. Section 253.105 is added to subpart 253.1 to read as follows:

253.105 Computer preparation.

The Department of Defense has notified the FAR Secretariat that it will computer-generate the standard and optional forms prescribed by the FAR. Accordingly, contracting offices in the Department of Defense are not required to provide further notice to the FAR Secretariat.

253.170 [Amended]

16. Section 253.170 is amended by adding a sentence at the end of the section to read: "Contracting offices may computer-generate DD Forms provided there is no change to the content or sequence of the data elements and the form carries the DD Form number and edition date."

253.270 [Removed]

17. Section 253.270 is removed.

18. The list of forms following section 253.204–70 is amended by removing from the title of the form under the listing "253.303–70–DD–375–2" after the word "Delivery" the words "(Flash Notice)"; by substituting in the title of the form under the listing "253.303–70–DD–1653" the word "Solicitation" in lieu of the words "IFBs and RFPs"; and by adding between the listing "253.303–70–DD–1861 DD Form 1861: Contract Facilities Capital Cost of Money" and the listing "253.303–70–DD–2025 DD Form 2025: Packaging Change Recommendation/Approval" the following listings:

"253.303–70–DD–1921 DD Form 1921: Cost Data Summary Report", "253.303–70–DD–1921–1 DD Form 1921–1: Functional Cost-Hour Report (page 1)", and "253.303–70–DD–1921–1: Functional Cost-Hour Report (page 2)".

19. DAR Supplement No. 1 is amended as follows:

S1–102 Definitions.

(a) Section S1–102.13 is added to read as follows: S1–102.13 *Market Survey* is defined at FAR 7.101.

S1–307 Selecting the source.

(b) Section S1–307.1 is amended by revising paragraph (b)(5) to read as follows:

S1–307.1 Source selection.

* * * * *

(b) * * *

(5) Other Sources of Information. Market Survey is an ongoing process of investigating the market in order to obtain available qualified sources in the market place. Market surveys may be appropriate for competitive as well as for noncompetitive procurements. The following are some resources through which contractors might locate potential suppliers:

* * * * *

[FR Doc. 88–26453 Filed 11–16–88; 8:45 am]
BILLING CODE 3810–01–M

Proposed Rules

Federal Register
Vol. 53, No. 222
Thursday, November 17, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-130-AD]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require inspection of the fuselage between body station (BS) 940 and BS 1000 body crown crease beam and the intercoastal structure, and repair, if necessary. This proposal is prompted by reports of body crease beam web and/or outer tee chord cracks between BS 940 and BS 1000, between stringers 8 left and right. The cracking is attributed to cyclic loading. This condition, if not corrected, could cause in-flight airplane depressurization and inability to sustain fail-safe loads.

DATE: Comments must be received no later than January 13, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-130-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-130-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The manufacturer has notified the FAA of reports of cracks in the body crease beam web and/or outer tee chord between body station (BS) 940 and BS 1000 on Model 747 airplanes. Approximately 22 cracks up to 3 inches long were found on 11 airplanes. The cracking is attributed to cyclic loading. Failure to detect and repair cracking in the crease beam, and possible resultant adjacent frame and skin cracking, could cause in-flight airplane depressurization and inability to sustain fail-safe loads.

The FAA has reviewed and approved Boeing Service Bulletin 747-53-2297, dated June 30, 1988, which defines the specific inspection procedures to be used to check for cracks in the body crease beam web and outer tee chord between BS 940 and BS 1000, from stringer S-8L to stringer S-8R, on certain Boeing Model 747 airplanes. A modification is also described in the service bulletin, which consists of verifying that the crown crease beam, intercoastals, and adjacent frames, stringers, and skin from BS 940 to BS 1000 are free of cracks, and reinforcing the beam-to-frame and skin connections with new channels, angles, and fillers. The inspections continue after modification, but the initial inspection would not be required until 10,000 landings after modification.

Since this condition is likely to exist or develop on other airplanes of this same type design, and AD is proposed which would require inspection and repair, if necessary, of certain Boeing 747 series airplanes, in accordance with the service bulletin previously mentioned.

There are aproximately 700 Model 747 series airplanes affected in the worldwide fleet. It is estimated that 260 airplanes of U.S. registry would be affected by this AD, that it would take approximately 16 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $166,400.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various level of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if

any, Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes listed in Boeing Service Bulletin 747-53-2297, dated June 30, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent depressurization as a result of failure of the crease beam and resultant adjacent frame failure, accomplish the following:

A. For airplanes not modified in accordance with Boeing Service Bulletin 747-53-2297, dated June 30, 1988, or Boeing Service Bulletin 747-53-2244, dated September 20, 1985:

1. Perform detailed visual and penetrant inspections of the body crown crease beam for cracks, from BS 940 to BS 1000 and from stringers S-8L to S-8R, at the times specified in the table below, in accordance with Boeing Service Bulletin 747-53-2297, dated June 30, 1988. In addition, perform a detailed visual inspection for cracks in all adjacent intercostals, stringers, and skins in the same area, in accordance with the aforementioned service bulletin.

For unmodified airplanes: Accumulated landings as of effective date of AD	Initial compliance period for paragraph A. of this AD
13,000 or more	Within 1,000 landings after the effective date of this AD.
Between 7,500 and 13,000.	Within 2,500 landings after the effective date of this AD, but not to exceed 14,000 total landings on the airplane.
7,500 or less	Prior to accumulation of 10,000 landings.

2. If no cracks are found, repeat the detailed visual and penetrant inspections required by paragraph A.1., above, at intervals not to exceed 6,000 landings.

3. If cracks are found, repair in accordance with an FAA-approved procedure prior to further flight, except as noted in paragraph A.4, below.

4. Repair of cracks less than 1.5 inches: If there are no more than three cracks in the web and no more than three cracks in any one flange of the outer tee chord, repair of the crease beam crack may be deferred for up to 1,500 landings by stop-drilling crack ends in accordance with Boeing Service Bulletin 747-53-2297, dated June 30, 1988, and repeating the detailed visual and penetrant inspection required by paragraph A.1., above, at intervals not to exceed 250 landings until repair in accordance with paragraph A.3., above, is accomplished.

5. Prior to the accumulation of 6,000 landings after a repair and thereafter at intervals not to exceed 6,000 landings, perform the detailed visual and penetrant inspections for cracks required by paragraph A., above, including any crease beam area where cracks were found. Before further flight, repair any additional cracks found, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

B. For airplanes that have been modified in accordance with Boeing Service Bulletin 747-53-2297, dated June 30, 1988, or Boeing Service Bulletin 747-53-2244, dated September 20, 1985: Prior to the accumulation of 10,000 landings after the modification, or within the next 500 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 6,000 landings, perform the body crown crease beam detailed visual and penetrant inspections for cracks as required by paragraph A., above. If cracks are found, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on November 4, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26621 Filed 11-14-88; 3:56 pm]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-153-AD]

Airworthiness Directives: Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which would require modification of the off-wing escape slide compartment door latching mechanism by replacing the hook in the integrator assembly. This proposal is prompted by reports of the off-wing escape slide deploying in flight. In two of the these incidents the off-wing slide hit the stabilizer and elevator which may affect airplane controllability. Additionally, in this situation this escape slide would not be available in the event of an emergency evacuation.

DATE: Comments must be received no later than January 9, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-153-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Branch, ANM-120S; telephone (206) 431-1929. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-153-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Boeing Model 767 off-wing escape slides are installed in a compartment in the wing-to-body fairing. Normally, when an overwing exit is opened, the escape slide is deployed from the compartment and inflates to provide an escape route from the wing to the ground.

The off-wing escape slide compartment door latching mechanism consists primarily of the latch train, system integrator, and latch opening actuator. When the overwing exist is opened, the actuator pulls on the latch train through the system integrator and unlatches the compartment door. The latch train consists of four latches to hold the compartment door closed and associated connecting hardware. When the actuator fires, the system integrator opens the latches and initiates the door opening/snubbing actuators. The system integrator also provides a means of manually opening the compartment for maintenance. The integrator, when properly rigged, will prevent the latches from opening inadvertently by means of a hook.

There have been several incidents of the off-wing escape slide inadvertently deploying in flight due to an incorrectly rigged nut on the door opening actuator, which prevents the system integrator hook from properly engaging. The close rigging tolerance on the actuator nut leaves the system susceptible to mis-rigging. If the integrator hook is not engaged, the latches may vibrate open in flight and escape slide compartment will open, deploying the escape slide. The escape slide then inflates and tears loose from the airplane. In one incident, the off-wing slide damaged the inboard flap and the elevator, and in another incident, the slide hit and slightly damaged the fuselage and stabilizer.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-25A0104, Revision 1, dated September 29, 1988, which contains instructions for replacement of the integrator hook and instructions for rigging the system. The new hook will make the system less susceptible to mis-rigging and the new rigging instructions will assure proper installation of the actuator. Those airplanes listed in Group 2 and those in Group 1 with Boeing Service Bulletin 767-25-0051 incorporated would be required to have the integrator hook replaced. The optional integrator assembly rework is not required.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require replacement of the integrator hook and rigging of the escape slide system in accordance with the service bulletin previously mentioned.

There are approximately 150 Model 767 series airplanes in the worldwide fleet. It is estimated that 60 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $24,000.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 767 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

§ 39.13 [Amended]

Boeing: Applies to all Model 767 series airplanes, identified in Boeing Alert Service Bulletin 767-25A0104, Revision 1, dated September 29, 1988, certificated in any category. Compliance required within 6 months after the effective date of this AD, unless previously accomplished.

To ensure that the off-wing escape slide does not inadvertently deploy due to a disengaged integrator hook, accomplish the following:

A. Replace the integrator hook and rig the escape slide system, in accordance with Boeing Alert Service Bulletin 767-25A0104, Revision 1, dated September 29, 1988.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial

Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on November 1, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26533 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-149-AD]

Airworthiness Directives: Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which would require inspection and replacement, if necessary, of roller fittings used on flight attendant seats. This proposal is prompted by reports of fatigue cracks discovered in one of the affected seats during an accident investigation. Fatigue cracks in the seat pan roller can result in seat failure in emergency landing conditions and injury to the occupant, and potentially rendering the adjacent exit unusable.

DATE: Comments must be received no later than January 10, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-149-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Trans Aero Industries, Inc., 502 North Oak Street, Inglewood, California 90302-2942, and from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Airframe Branch, ANM-120S; telephone (206) 431-1932. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-149-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During the accident investigation following an accident in which a Boeing Model 737 airplane overran the runway during landing, it was discovered that the seat pan roller fitting on one of the flight attendant seats had evidence of fatigue. The seat had failed in the accident after experiencing very high loads.

The flight attendant seat is a fold-down retractable type that is spring-loaded to the stowed position when not occupied. The roller fitting guides the retraction motion. If the roller fitting fails, the seat could pivot downward and cause injury to the occupant. In addition, if the seat fails in the down position, it may not be possible to retract the seat. Since some seats are positioned near floor level exists, such that seat retraction is necessary to open the exist, failure of the roller fitting could result in an exist being unavailable in an emergency.

The NTSB has issued Safety Recommendation A-87-109 to recommend that the FAA issue an airworthiness directive to require a one-time inspection of the affected seat pan roller assembly.

The FAA has attempted to obtain information regarding the status of in-service flight attendant seats, but has been unable to obtain sufficient information to determine that a fleet-wide problem does not exist. In addition, the seat manufacturer has issued Trans Aero Service Bulletin No. 113, dated May 11, 1988, advising operators of the potential fatigue problem and describing an inspection to determine if fatigue is present. However, the manufacturer has been unable to obtain meaningful feedback from operators as to whether or not they are accomplishing the inspection recommended in the service bulletin.

Due to the potential hazards if the roller fitting fails, and in the absence of sufficient data to show that a fleet-wide fatigue problem is not present, the FAA has determined that an airworthiness directive is warranted, requiring inspection and replacement, if necessary, of Trans Aero seat pan roller assembly, part number (P/N) 90862-3 and -4.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require repetitive inspections of seat pan rollers fittings for evidence of fatigue in accordance with Trans Aero Service Bulletin No. 113, dated May 11, 1988. The AD would also require replacement of the fitting if fatigue is present. In addition, a requirement to report the results of the inspections would be included.

There are approximately 1,600 Model 737 series airplanes in the worldwide fleet. It is estimated that 600 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $24,000.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship

between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

§ 39.13 [Amended]

Boeing: Applies to Model 737 series airplanes, equipped with flight attendant seats, Trans Aero part number (P/N) 90835, certificated in any category. Compliance required as indicated.

To prevent possible failure of flight attendant seats, accomplish the following:

A. Within the next 12 months after the effective date of this amendment, unless previously accomplished within 6 months prior to the effective date of this amendment, inspect the P/N 990862-3 and -4 seat pan roller fittings for evidence of fatigue and/or deformation, in accordance with Trans Aero Service Bulletin No. 113, dated May 11, 1988. Repeat the inspection at intervals not to exceed 18 months.

B. If evidence of fatigue or deformation is found, prior to further flight, replace the seat pan roller fitting with an airworthy part. Inspect the new fitting, in accordance with paragrah A., above, at intervals not to exceed 18 months.

C. Within 10 days after completion of the inspection required by paragraph A., above, submit a report of findings, positive or negative, to the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note. The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Trans Aero Industries, Inc., 502 North Oak Street, Inglewood, California 98302-2942, or to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on November 2, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26535 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-156-AD]

Airworthiness Directives: Fokker Model F-27 Series Airplanes

AGENCY: Federal Aviation Administation (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Fokker Model F-27 series airplanes, which would require a one-time inspection of the upper brace strut in the nacelle center section, to ensure the struts are the correct configuration, and replacement, if necessary. This proposal is prompted by a report of a broken upper brace strut due to fatigue cracking. This condition, if not corrected, could result in engine separation and subsequent structural damage to the airplane aft of the engine.

DATE: Comments must be received no later than January 13, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administation, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 431-1978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-AD, 17900 Pacific Highway

South, C-68966, Seattle, Washington 98168.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on Fokker Model F-27 Series airplanes.

The manufacturer has received one report of a broken upper nacelle brace strut on a Model F-27 series airplane found during a transit check. Investigation revealed that the brace strut probably failed due to fatigue cracking that initiated at the hole of a self-tapping screw. The broken brace strut was found to deviate from the production configuration by not having a welded washer with a screw at both ends of the brace strut tube. This condition, if not corrected, could result in engine separation and subsequent structural damage to the airplane aft of the engine.

Fokker has issued Service Bulletin F27/54-44, dated July 7, 1988, which describes procedure for a one-time inspection of the upper nacelle brace struts to determine the brace strut configuration, and replacement if the brace strut is in the improper configuration. The RLD has classified this service bulletin as mandatory, and has issued Netherlands Airworthiness Directive BLA No. 88-44.

This airplane is manufactured in Netherlands and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require a one-time inspection of the upper nacelle brace struts to ensure the struts are the correct configuration, and replacement, if necessary.

It is estimated that 11 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor costs would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,760.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($160). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

§ 39.13 [Amended]

Fokker: Applies to Model F-27 series airplanes, Serial Numbers 10102 through 10307, certificated in any category. Compliance required as indicated unless previously accomplished.

To prevent engine separation and subsequent structural damage to the airpline aft of the engine, accomplish the following:

A. Within 60 days after the effective date of this AD, inspect both the right and left upper nacelle brace struts, in accordance with Fokker Service Bulletin F27/54-44, dated July 7, 1988. If any brace strut is found with a self-tapping screw, prior to the accumulation of 30,000 landings on the strut, or within the next 500 landings after the effective date of this AD, whichever occurs later, replace the brace strut in accordance with the referenced service bulletin.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspection required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on November 4, 1988.

Leroy A. Keith, Manager,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26538 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-124-AD]

Airworthiness Directives: McDonnell Douglas Model DC-8 Series Airplanes Equipped with Control Columns, P/N's 5614272-1 and/or -2

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive, applicable to all McDonnell Douglas Model DC-8 series airplanes, which currently requires inspection of specific areas of the control columns for cracks, and rework or replacement, as necessary. This action would require inspection of additional areas of the control columns for cracks, and rework or replacement, as necessary. This action is prompted by reports of additional cracking found in areas outside of those required to be inspected by the existing AD. Such cracking, if not detected and corrected, could lead to failure of the control column which, if it occurred during a critical flight regime, could result in loss of control of the airplane.

DATE: Comments must be received no later than January 10, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, AMN-103, Attention: Airworthiness Rules Docket No. 88-NM-124-AD, 17900 Pacific Highway South, C-68966 Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 E. Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. David Y.J. Hsu, Aerospace Engineer, Airframe Branch, AMN-1221, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5323.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-124-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On April 5, 1973, FAA issued AD 73-07-09, Amendment 39-1967 (39 FR 33791; September 20, 1974), to require inspections of specific areas of the control columns (P/N's 5614272-1 and -2) on McDonnell Douglas DC-8 series airplanes for cracks, and rework or replacement, as necessary. The requirements of the existing AD are intended to detect early fatigue cracking of the pilot's and/or copilot's control column. Such cracking, when left undetected, may propagate and reach critical crack length, resulting in failure of the control column. Failure of a control column during critical flight regime could result in the loss of airplane control.

Since issuance of that AD, fatigue cracks have been identified at new locations not previously described and addressed by the existing AD and the applicable service information (McDonnell Douglas All Operator Letter 8-632). Recently, operators of Model DC-9 series airplanes have reported three incidents of fatigue cracking of both captain's and first officer's control columns. In one case, the captain's control column failed during a preflight check; the failed control column had accumulated 26,225 flight hours and 32,263 landings. The control columns used on the Model DC-9 are identical to those installed on the Model DC-8. During the past 14 years, operators of Model DC-8 series airplanes have found cracks or indications of cracks in at least 40 control columns during dye penetrant inspection. Three other instances were found on Model DC-8 series airplanes during the same time frame, where one captain's and two first officers' control columns failed completely during preflight checks. One of the Model DC-8 first officer's control columns that failed had accumulated only 13,275 flight hours. Analysis by McDonnell Douglas attributes the cracks and failures to fatigue.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin A27-267, issued February 18, 1987, and Revision 1, dated May 22, 1987, which describes a procedure for inspection for fatigue cracks at locations including and in addition to those previously addressed in AD 73-07-09. Accomplishment of this inspection will determine the condition of the control columns. The allowable limits and blendout criteria established in AD 73-07-09 for surface crack indications are retained.

The FAA has also reviewed and approved McDonnell Douglas DC-8 Service Bulletin 27-267, dated January 20, 1988, which provides instructions for replacement of both the captain's and first officer's control columns with new columns having improved fatigue life.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 73-07-09 to require repetitive inspections of the control columns for cracks, and rework or replacement, as necessary, in accordance with the McDonnell Douglas Service bulletins previously described. Replacement of both control columns with the new improved columns would constitute terminating action for the requirements of the AD.

There are approximately 350 model DC-8 series airplanes in the worldwide fleet. It is estimated that 256 airplanes of U.S. registry would be affected by this AD, that it would take approximately 14 manhours per airplane to accomplish the initial inspection, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $143,360 for the initial inspection cycle.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($560). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of

the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

2. By superseding AD 73-07-09, Amendment 39-1967 (39 FR 33791; September 20, 1974), with the following new airworthiness directive:

§ 39.13 [Amended]

McDonnel Douglas: Applies to Model DC-8 series airplanes equipped with control columns, P/N's 5614272-1 and/or -2, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the loss of airplane control in critical flight regimes due to fatigue failure of the control column, accomplish the following:

A. Within the next 1,250 hours time-in-service after September 25, 1974 (the effective date of Amendment 39-1967), unless already accomplished within the last 1,250 hours time-in-service, and thereafter at intervals not to exceed 2,500 hours time-in-service, except as provided below, conduct a dye penetrant or eddy current inspection of the control columns in accordance with the instructions in McDonnell Douglas All Operators Letter 8-632, issued October 11, 1972, or equivalent inspection technique approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

1. If surface indications of cracking exist, consisting of small specks not yet joined to form a linear crack of at least ⅛-inch in length, no rework is required, but the inspection interval is thereafter reduced to 2,000 hours time-in-service.

2. If linear cracks of ⅛-inch or more exist, blendout may be accomplished, in lieu of replacement, subject to the following qualifications: Blendout shall not exceed .030-inch in depth from the original surface and shall be blended over an area 10 times the depth. The defect shall not exceed an initial length of ¼-inch. No more than two defects can occur in the same horizontal plane, and the defects shall be separated by at least 2-inch center-to-center spacing. Additional defects may be blended if the vertical distance between horizontal planes is at least 1/4-inch and the 2-inch center-to-center spacing requirement in the same horizontal plane is observed. After this rework, inspect at intervals not to exceed 2,500 hours time-in-service.

3. If cracks which exceed the limits described in paragraph A2 of this AD are discovered as a result of any inspection, remove and replace the control columns, P/N's 5614272-1 and/or -2, in accordance with paragraph C. of this AD, or rework in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Within the next 1,250 hours time-in-service after the effective date of this AD, unless already accomplished within the last 1,250 hours time-in-service, conduct a dye penetrant or eddy current inspection of the control columns, in accordance with the instructions in McDonnell Douglas DC-8 Alert Service Bulletin A27-267, dated February 18, 1987, or Revision 1, dated May 22, 1987, or equivalent inspection technique approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

1. If no cracks are found, accomplish repetitive inspections at intervals not to exceed 2,500 hours time-in-service.

2. If cracks are found, prior to further flight, remove and replace the control column(s) in accordance with paragraph C. of this AD.

C. Replacement of pilot's or copilot's control column, P/N's 5614272-1 or 5614272-2, with new control columns, SB 09270288-3 or SB 09270288-4, respectively, in accordance with McDonnell Douglas DC-8 Service Bulletin 27-267, issued January 20, 1988, constitutes terminating action for the requirements of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on November 2, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26534 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-178-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, -50, and C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-9-10, -20, -30, -40, -50, and C-9 series airplanes, which would require repetitive aided visual inspections for cracks in certain longerons. This action is prompted by reports of fuselage skin and longeron cracks in the upper fuselage over the wing. This condition, if not corrected, could result in degradation of the structural integrity of the fuselage and rapid decompression of the airplane.

DATES: Comments must be received no later than December 23, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-178-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publication and Training, C1-750 (54-60). This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O'Neil, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90808; telephone (213) 988-5320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public

contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-178-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On May 19, 1987, the FAA issued AD 87-14-07, Amendment 39-5630 (52 FR 25589; July 8, 1988) to require supplemental structural inspections of principal structural elements as defined in the Supplemental Inspection Document (SID) for certain McDonnell Douglas Model DC-9-30 series airplanes. During these supplemental structural inspections conducted in accordance with AD 87-14-07, an operator found skin cracks at 4 locations near longeron 1 at overwing stations on a Model DC-9-30 series airplane that had accumulated a total of approximately 69,000 landings. On another airplane with 65,000 landings, cracked skin fasteners were noted, and upon further inspection, 14 longeron cracks were found. Subsequent inspections have revealed skin cracks on 4 airplanes and longeron cracks on 23 airplanes. Preliminary investigation has revealed that the cracks are attributed to fatigue.

This condition, if not corrected, could degrade the structural integrity of the fuselage and lead to possible rapid decompression.

The FAA has reviewed and approved McDonnell Douglas DC-9 Alert Service Bulletin A53-230, dated November 2, 1988, which describes the areas to be inspected, methods of inspection, and repair instructions.

Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is proposed that would require repetitive aided visual inspections for cracks in the longerons of the area in the upper fuselage over the wing, and repair, if necessary, in accordance with the McDonnell Douglas service bulletin previously mentioned.

Based on the same reports of cracking described above, the FAA has issued a separate final rule, Amendment 39-6071, Docket 88-NM-172-AD, to require repetitive external eddy current inspections of this same area of the longerons and the fuselage skin.

There are approximately 267 Model DC-9 series airplanes of the affected design in the worldwide fleet. It is estimated that 245 airplanes of U.S. registry would be affected by this AD, that it would take approximately 48 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $470,400 for the initial inspection cycle.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model DC-9 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-9-10, -20, -30, -40, -50, and C-9 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished. To prevent fatigue cracking and failure of fuselage skin and longerons, accomplish the following:

A. Prior to the accumulation of 55,000 landings, or within 1,500 landings after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 2,500 landings, perform an aided visual inspection (3x to 5x magnification) of the longerons from longeron 7 left through 7 right from inside the fuselage, in accordance with the accomplishment instructions of McDonnell Douglas DC-9 Alert Service Bulletin A53-230, dated November 2, 1988, within the range of fuselage stations for the particular series airplane as specified in Table I of that service bulletin.

B. Conduct repetitive inspections in accordance with paragraph A. above, according to the following schedule:

1. For Model DC-9-40 series airplanes: repeat the inspections at intervals not to exceed 2,500 landings.

2. For Model DC-9-10, -20, -30, -50, and C-9 series airplanes: repeat the inspections at intervals not to exceed 5,800 landings.

C. If cracks are detected, prior to further flight, repair in accordance with McDonnell Douglas DC-9 Alert Service Bulletin A53-230, dated November 2, 1988.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21-197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on November 8, 1988.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26623 Filed 11-14-88; 4:02 pm]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-155-AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which would require a periodic operational check to manually open and close all entry/service doors to verify the integrity of the door counterbalance torsion springs, and replacement, if necessary. This proposal is prompted by reports of several instances of broken graphite composite counterbalance torsion springs which inhibit normal door operation. This condition, if not corrected, would require extra effort to unlatch the door, and manual assistance to open the door in the emergency mode, or would render the door inoperable should the broken spring jam the counterbalance assembly. A jammed counterbalance assembly would prevent the door from opening when required during an emergency evacuation.

DATE: Comments must be received no later than January 13, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-155-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Pliny Brestel, Airframe Branch, ANM-120S; telephone (206) 431-1931. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-69866, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-155-AD, 17900 Pacific Highway South, C-69866, Seattle, Washington 98168.

Discussion

Several operators of Boeing Model 767 airplanes have reported instances in which an entry/service door was inoperable in the normal opening mode. Investigation revealed that the door counterbalance inner graphite composite torsion spring had fractured, resulting in a loss of approximately 50% of the mechanical assist capability. Those doors, having counterbalance assemblies in which the inner torsion spring has fractured, are operable in the emergency mode, providing that the broken spring does not jam the counterbalance assembly. This operation requires extra effort to be applied to the operating handle to unlatch the door and release the emergency evacuation slide/raft pack, and manual assistance to lift the door. Doors with jammed counterbalance assemblies would prevent the doors from opening when required for emergency evacuation.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-52A0053, dated August 25, 1988, which describes an operational check to detect a broken counterbalance torsion spring, and replacement, if necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require a periodic operational check of entry/service doors and replacement of the counterbalance torsion spring, if necessary, in accordance with the service bulletin previously mentioned. This is considered interim action until an improved counterbalance torsion spring is developed, at which time the FAA may consider further rulemaking to address it as terminating action for the periodic checks.

There are approximately 104 Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 50 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,000 per inspection or $24,000 per year.

The regulation proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA had determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, is promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 767 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of

the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, line position 132, 136, 140, and subsequent, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure opening of entry/service doors when required for emergency evacuation, accomplish the following:

A. Within 350 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 350 flight hours, perform an operational check on each entry/service door to detect a broken counterbalance graphite torsion spring, and replace with an airworthy part, if necessary, before further flight, in accordance with Boeing Alert Service Bulletin 767-52A0053, dated August 25, 1988. After replacement of any counterbalance graphite torsion spring, continue to perform the operational checks at interval not to exceed 350 flight hours.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on November 4, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26536 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-154-AD]

Airworthiness Directives; British Aerospace Model BAe 146 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146 series airplanes, which would require a one-time inspection of the aileron and elevator trim screwjack assemblies to determine the presence of a circlip, and installation of the circlip if it is missing. This proposal is prompted by reports that some of the aileron and elevator trim screwjacks have been assembled without a circlip during production. This condition, if not corrected, could lead to a hazardous trim system configuration in the event of a single failure in the trim tab system.

DATE: Comments must be received no later than January 13, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-154-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletin, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-154-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on British Aerospace Model BAe 146 series airplanes.

Quality control inspection by the manufacturer revealed that, during production of these airplanes, some of the aileron and elevator trim screwjacks may have been assembled without the circlip. This circlip retains a sleeve in place that provides a second load path in the attachment of the screwjacks. Absence of this circlip degrades the dual load path design of the trim tab system. This condition, if not corrected, could lead to a hazardous trim system configuration in the event of a single failure in the trim tab system.

British Aerospace has issued Model BAe 146 Inspection Service Bulletin 27-74, dated April 8, 1988, which describes procedures for a one-time inspection of the right and left aileron and elevator trim screwjacks, and installation of the missing circlip, if necessary. The CAA has classified the BAe service bulletin as mandatory.

This airplane model is manufactured in United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require a one-time inspection of the aileron and elevator trim screwjack assemblies to determine the presence of a circlip, and installation of the circlip if it is missing, in accordance with the British Aerospace service bulletin previously mentioned.

It is estimated that 45 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $9,000.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane because few, if any, Model BAe 146 airplanes are operated by small entities. A copy of the draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

British Aerospace

Applies to all British Aerospace (BAe) Model 146 100A series airplanes, serial numbers up to and including E1101; and 200A series airplanes, serial numbers up to and including E2100; certified in any category. Compliance required as indicated, unless previously accomplished.

To prevent a hazardous trim system configuration, accomplish the following:

A. Within 60 days or 600 landings after the effective date of this AD, whichever occurs first, inspect the right and left aileron and elevator trim screwjack assemblies for the presence of a circlip, in accordance with BAe Inspection Service Bulletin 27-74, dated April 8, 1988. If the circlip is missing, prior to further flight, install a circlip in accordance with the service bulletin.

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

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

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

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

Issued in Seattle, Washington, on November 4, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 88-26537 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-119-AD]

Airworthiness Directives, McDonnell Douglas Model DC-6, -6A, -6B, R6D, C-118A (Military), and DC-7 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-6 and DC-7 series airplanes, which would require inspection and replacement, if necessary, of wing center spar main landing gear fittings. This proposal is prompted by reports of stress corrosion cracking in the wing center spar main landing gear fittings. This condition, if not corrected, could lead to failure of the main landing gear.

DATES: Comments must be received no later than January 6, 1989.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-119-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5228.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the

Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-119-Ad, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. DISCUSSION: There have been recent reports by operators of three incidents of cracking found in the wing center spar main landing gear fittings of McDonnell Douglas Model DC-6 airplanes. This cracking has been attributed to stress corrosion. Such cracking, if not detected and corrected, could lead to failure of the fitting, which could result in failure of the main landing gear.

The Model DC-7 series airplane is identical to the Model DC-6 in this area and, therefore, may be susceptible to the same type of stress corrosion cracking.

The FAA has reviewed and approved McDonnell Douglas Rework Drawing SR06578001, "NC," dated July 25, 1988, which describes procedures for inspection of the wing center spar main landing gear fitting, and rework or replacement, if necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require repetitive inspections and, if necessary, rework or replacement of wing center spar main landing gear fittings, in accordance with the McDonnell Douglas rework drawing previously described.

It is estimated that 255 airplanes of U.S. registry would be affected by this AD, that it would take approximately 36 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $367,200.

The regulations proposed herein would not have substantial direct effects on the states, or on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, small entities operate McDonnell Douglas Models DC-6 and DC-7 series airplanes. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects: 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-6, -6A, -6B, R6D, C-118A (Military), and DC-7 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect stress corrosion cracks and prevent failure of the wing center spar main landing gear fittings, accomplish the following:

A. Within 1 month after the effective date of this AD, unless already accomplished within the last 5 months, and thereafter at intervals not to exceed 6 months, perform a dye penetrant inspection of the wing center spar main landing gear fittings around the bore and up to the lower wing skin, paying particular attention to the milled pocket in the outboard fitting, in accordance with Douglas Rework Drawing SR 06578001, "NC." After each inspection apply LPS-3 corrosion inhibiting oil or equivalent to each fitting.

B. If a crack is found as a result of the inspection required by paragraph A., above, prior to further flight, accomplish the following:

1. If a crack is found inside the recessed pocket areas, perform an eddy current inspection to determine if the crack extends above or below recessed pocket areas.

2. If cracks are found in the recessed pocket areas which are within the limits shown on McDonnell Douglas Rework Drawing SR06578001, "NC," dated July 25, 1988, accomplish the trimout rework in accordance with that drawing. Thereafter, conduct inspections in accordance with paragraph A., above, at intervals not to exceed 3 months.

3. If cracks are found in the main landing gear cylinder bore or cracks are found which extend beyond the rework limits shown on McDonnell Douglas Rework Drawing SR06578001, "NC," dated July 25, 1988, replace the fitting(s), prior to further flight, with airworthy parts. If cracked fittings are replaced with new fittings made from 7075-T6 forging material, inspect the fittings in accordance with paragraph A., above, within 60 months after installation and thereafter at intervals not to exceed 12 months.

C. Installation of new fittings made of 7050-T7452 hand forging material constitutes terminating action for the inspections required by this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base to comply with the repair requirement of this AD when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 E. Spring Street, Long Beach, California 90806-2425.

Issued in Seattle, Washington, on October 31, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 88-26539 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-MN-139-AD]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes Equipped With Rudder Drive Torque Tube Crank Assembly, P/N 5647102-1 or 501

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-8 series airplanes, which would require inspection of the rudder drive torque tube crank assembly for fatigue cracking, and replacement, as necessary. This AD is prompted by two reported failures of that crank assembly. In one case, the pilot aborted takeoff at about V_1 speed due to a broken rudder crank assembly, which resulted in the loss of directional control. This condition, if not corrected, could result in the loss of directional flight control of the airplane during a critical flight regime.

DATE: Comments must be received no later than January 6, 1989.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-MN-139-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. David Y. J. Hsu, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5323.

SUPPLEMENTARY INFORMATION: .

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-MN-139-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Two operators have reported two instances of fatigue failure of the rudder drive torque tube crank. In one case, on takeoff, the captain experienced a stiff rudder at 110 knots, which resulted in his decision to reject the takeoff. Inspection of the airplane revealed that the rudder crank assembly had broken in two.

Fatigue cracking of the rudder drive torque tube crank assembly, if left undetected, could propagate and cause the assembly to fail, resulting in the loss of directional flight control of the airplane in a critical flight regime.

The FAA has reviewed and approved McDonnell Douglas DC-8 Service Bulletin 27-268, dated February 9, 1988, which describes procedures for repetitive inspections and replacement, as necessary, of the rudder drive torque tube crank assembly (P/N 5647102-1 or -501) for fatigue cracking.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection and replacement, as necessary, of the rudder drive torque tube crank assembly in accordance with the service bulletin previously mentioned. Replacement of the crank assembly with an improved crank assembly (P/N 5647102-503) would constitute terminating action for the repetitive inspection requirements.

There are approximately 350 model DC-8 series airplanes in the worldwide fleet. It is estimated that 256 airplanes of U.S. registry would be affected by this AD, that it would take approximately 0.6 manhours per airplane to inspect the crank assembly for cracks, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,144 for the initial inspection cycle.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications warranting the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($24). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects: 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8 series airplanes, equipped with rudder drive torque tube crank assembly, P/N 5647102-1 or -501 certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the loss of directional control of the airplane in critical flight regimes due to fatigue failure of the rudder drive torque tube crank assembly, accomplish the following:

A. Within the next 1,000 hours time-in-service after the effective date of this AD, unless already accomplished within the last 2,600 hours time-in-service, conduct an eddy current inspection of the rudder drive torque tube crank assembly, in accordance with the accomplishment instructions in McDonnell Douglas DC–8 Service Bulletin 27–268, dated February 9, 1988, or equivalent inspection technique approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. If no cracks are found, repeat the inspection in accordance with paragraph A. of this AD at intervals not to exceed 3,600 hours time-in-service.

C. If cracks are found, accomplish one of the following:

1. Replace cracked rudder drive crank assembly (P/N 5647102–1 or –501) with P/N 5647102–501, in accordance with McDonnell Douglas DC–8 Service Bulletin 27–268, dated February 9, 1988, and repeat inspections in accordance with paragraph B. of this AD; or

2. Replace the rudder drive crank assembly with P/N 5647102–503 in accordance with McDonnell Douglas DC–8 Service Bulletin 27–268, dated February 9, 1988.

D. Replacement of the rudder drive crank assembly with P/N 5647102–503, in accordance with McDonnell Douglas DC–8 Service Bulletin 27–268, dated February 9, 1988, constitutes terminating action for the repetitive inspections required by this AD.

E. Alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on October 31, 1988.

Leroy A. Keith,

Manager Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 88–26540 Filed 11–16–88; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

Withdrawal of Proposed Interpretive Rule Relating to Classification of Motor Vehicles as Automobile Trucks

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of withdrawal.

SUMMARY: This document withdraws a notice that Customs published in the **Federal Register** on June 1, 1988 (53 FR 19933), stating that it was reviewing the criteria it considers in determining the classification of certain motor vehicles as "automobile trucks" under item 692.02, Tariff Schedules of the United States (TSUS). The recently enacted Omnibus Trade and Competitiveness Act of 1988 provides that the Harmonized Tariff Schedule of the United States (HTS), a new tariff nomenclature, will replace the TSUS on January 1, 1989. As the TSUS will not be applied for entries made after January 1, 1989, review of the criteria for prospective classification of motor vehicles under provisions of the TSUS is no longer necessary.

EFFECTIVE DATE: Withdrawal effective November 17, 1988.

FOR FURTHER INFORMATION CONTACT: John L. Valentine, Commercial Rulings Division (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

The Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), provide in Subpart B, Part 6, schedule 6, for the classification and rate of duty for motor vehicles imported into the U.S. Automobile trucks valued at $1,000 or more are classified in item 692.02, TSUS, and pursuant to a temporary rate increase under item 945.69, TSUS, are dutiable at 25 percent ad valorem. Motor vehicles for the transport of persons or articles, other than motor buses (item 692.04), and trucks specifically described in item 692.02, TSUS, are classified in item 692.10, TSUS, and are dutiable at 2.5 percent ad valorem.

On June 1, 1988, Customs published a document in the **Federal Register** (53 FR 19933), stating that it was reviewing the criteria it used in classifying certain motor vehicles as "automobile trucks" in item 692.02, TSUS, and that it was seeking comments on its review of the criteria.

On August 23, 1988, the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), was enacted. This act provides for a new tariff nomenclature, the Harmonized Tariff Schedule of the United States (HTS), which becomes effective on January 1, 1989. In general, the relevant HTS headings are 8703 and 8704. Heading 8703 provides for "Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars;" heading 8704 provides for "Motor vehicles for the transport of goods." All entries of vehicles on or after January 1, 1989, will be made under the appropriate HTS subheading.

The tariff nomenclature under the HTS is different from the TSUS nomenclature and will be interpreted according to all relevant rules of interpretation, legal notes, and if necessary, any relevant legislative history.

Because Customs will be addressing the classification of all motor vehicles under the HTS, rather than the TSUS, after January 1, 1989, review of the criteria Customs should use in the future in classifying certain motor vehicles under the provisions of the TSUS is no longer necessary.

In accordance with the above, no further action is necessary on the TSUS classification issue raised in the Customs notice of June 1, 1988.

Dated: November 14, 1988.

William von Raab,

Commissioner of Customs.

[FR Doc. 88–26624 Filed 11–15–88; 8:45 am]

BILLING CODE 4820–02–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 270

[FRL–3477–9]

Modifications of Hazardous Waste Management Permits

AGENCY: Environmental Protection Agency.

ACTION: Request for further comment.

SUMMARY: .On August 14, 1987 (57 FR 30570), the Environmental Protection Agency (EPA) proposed a rule under the Resource Conservation and Recovery Act (RCRA) that would simplify procedural requirements for interim status facilities that needed to add new hazardous waste management processes and for permitted facilities that wanted to manage newly listed or identified hazardous wastes. In the course of developing land disposal restrictions for the First Third scheduled wastes (53 FR

31138, August 17, 1988) and the California list wastes (52 FR 25760, July 8, 1987) EPA received several comments on the need to provide similar flexibility in the RCRA permitting regulations for facilities that need to make changes to comply with RCRA's land disposal restrictions. In particular, commenters expressed concern about the time that would be required for EPA to modify permits to allow facilities to handle restricted wastes, including treated contaminated leachate and groundwater, that meet best demonstrated available technology (BDAT) standards. In addition, members of the regulated community cited a need for increased flexibility in adding treatment processes at permitted facilities, where those processes were used to treat restricted waste to BDAT, or to facilitate such treatment. Today's notice solicits further comments on these issues, particularly on whether such changes should be classified as Class 1 modifications under the Agency's new permit modification regulations (53 FR 37912, September 28, 1988).

DATE: Comments on this notice should be submitted on or before December 19, 1988.

ADDRESSES: Comments should be addressed to the docket clerk at the following address: Environmental Protection Agency, RCRA Docket (S-212) (OS-305), 401 M Street, SW., Washington, DC 20460. One original and two copies should be sent and identified by regulatory docket reference number FY-87-RIPP-FFFF. The docket is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Docket materials may be reviewed by appointment by calling (202) 475-9327. Copies of docket materials may be made at no cost, with a maximum of fifty pages of material from any one regulatory docket. Additional copies are $0.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information about the regulatory requirements under RCRA, contact the RCRA Hotline, Office of Solid Waste (OS-305), U.S. Environmental Protection Agency, Washington, DC, 20460, (800) 424-9346 (toll-free) or (202) 382-3000 (local).

Specific questions about issues discussed in this notice should be directed to Frank McAlister, Office of Solid Waste (OS-341), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4740.

SUPPLEMENTARY INFORMATION:

I. Authority

This notice is issued under the authority of section 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6924 and 67925.

II. Background

On August 14, 1987, the Agency proposed a rule that would provide increased flexibility for interim status facilities making changes necessary to comply with new requirements (52 FR 30570). Under the current § 270.72(a), interim status facilities may handle new wastes without specific EPA approval, and under § 270.72(c) they may add new processes, with approval, if the processes are necessary to comply with Federal, State, or local requirements. However, § 270.72(e) generally prohibits changes at an interim status facility if they would constitute a "reconstruction" of the facility—that is, if the changes would cost more than 50% of the capital cost of a comparable new facility. The August 14 proposal would lift this reconstruction limit for changes in processes necessary to comply with Federal, State, or local requirements, as long as the processes took place in tanks or containers. In addition, the August 14 notice proposed new permit modification procedures to allow permitted facilities to handle newly identified hazardous wastes. Today's notice solicits additional comment on the issue of whether permitted facilities also need greater flexibility in making changes necessary to comply with the land disposal restrictions.

These restrictions were enacted by Congress in the 1984 Hazardous and Solid Waste Amendments (HSWA) to RCRA, which prohibited the land disposal of hazardous waste that does not meet specified treatment standards (or is not disposed of in land disposal units that satisfy the statutory "no-migration" standard contained in RCRA sections 3004(d), (e), and (g)). Sections 3005(d) through (g) of RCRA set out a schedule according to which specific wastes are subject to land disposal restrictions. At the same time, section 3005(m) requires EPA to set treatment standards for restricted wastes; wastes which meet these standards are not prohibited from land disposal. EPA has been implementing these restrictions in a series of rulemakings, including rules establishing standards based on Best Demonstrated Available Technology (BDAT) for solvents and dioxins (51 FR 40572, November 7, 1986), California list wastes (52 FR 25760, July 8, 1987), and First Third Wastes (53 FR 31138, August 17, 1988). Additional wastes will be subject to Land Disposal Restrictions as of June 8, 1989, and all pre-HSWA listed and characteristic wastes will be subject to the restrictions by May 8, 1990.

To meet these new requirements, RCRA treatment, storage, and disposal facilities are finding it necessary to make significant modifications in their handling of hazardous waste. For example, many facilities have sought to add new processes not identified in their permits or interim status authorizations so that they can treat restricted wastes and meet the land disposal restriction standards. Other facilities, which have treatment processes already in place, have sought to add new waste codes, allowing them to receive restricted wastes for treatment, or in certain cases to dispose of restricted wastes after treatment. Finally, some generators have experienced difficulty in finding permitted facilities than can handle specific treatment residues without permit modifications. The Agency recognizes that a flexible permitting system, expediting such modifications, is necessary for the effective implementation of the land disposal restrictions.

In developing these restrictions, therefore, the Agency took specific steps to increase flexibility in permit modifications. In the solvents and dioxins rule (51 FR 40572), the Agency amended § 270.42 of the permitting regulations to allow the addition of a new waste code as a "minor" permit modification, if the waste was restricted from land disposal under Part 268, the waste met the applicable land disposal restriction treatment standards, and handling of the waste did not present risks substantially different from the handling of wastes already listed in the permit (40 CFR 270.42(o)). In the California list rule (52 FR 25792), the Agency further expanded the list of minor permit modifications in § 270.42 to include the addition of new processes used to treat restricted waste to BDAT levels, as long as those processes took place in tanks or containers § 270.42(p)). At the same time, however, facilities were required to apply for a major permit modification.

EPA's new permit modification regulations, published on September 28, 1988 (53 FR 37912), recently superseded these amendments. In the permit modification regulations, EPA replaced the major-minor permit modification system of § 270.41 and 270.42 with a three-tiered system of modifications. Under this new system, Class 1 modifications, which are generally

routine or technically narrow changes, are analogous to the minor modifications of the earlier regulations. Class 2 and 3 modifications, which involve more substantial changes to the facility, require more time-consuming and elaborate approval procedures, including prior public notice and comment. These changes are generally analogous to the former major modifications of § 270.41. Neither of the two minor modifications established for restricted wastes in § 270.42(o) and (p) were categorized as Class 1 in the new permit modification rules. However, the new rules allow the Agency to issue "temporary authorizations" for several changes potentially relevant to land disposal restrictions, including the treatment or storage of restricted wastes in tanks or containers and changes to protect human health and the environment. In this respect, the permit modification regulations maintain some flexibility for facilities to comply with the land disposal restrictions.

III. Summary of Comments on Permit Flexibility

In the course of the land disposal restriction rulemakings, the Agency received a number of comments on the need to further expedite permit modification procedures. As a result of these comments, the Agency began to consider that it might be desirable to restore the "minor modification" status established in the solvents and dioxins and California list rules. The Agency also noted that the flexibility these commenters request is similar to changes proposed in the August 14, 1987 "facility changes" rule for interim status facilities. Consequently, the Agency decided to transfer these comments to the docket for that proposal and will consider them further before issuing the final rule on facility changes. EPA is today soliciting comment on the two issues described below.

First, members of the regulated community have argued that the land disposal restrictions impose unexpected difficulties for owners and operators of facilities that treat, store, or dispose of mixtures of several wastes with separate EPA hazardous waste codes which are subject to the land disposal restrictions. These difficulties have two sources. First, the land disposal restrictions impose new rules for tracking and recordkeeping that require waste generators and treaters to list in an accompanying document (although not in the separate manifest) all waste codes applying to wastes in an individual batch or shipment. See 40 CFR 268.7. Second, the preamble to the proposed and final First Third land disposal rules focused on two particular types of complex wastes, "derived from" wastes and "contained in" wastes. This discussion reminded the regulated community that regulations promulgated in 1980 provide that any waste "derived from" the treatment, storage, or disposal of a listed hazardous waste is considered to be the same listed waste. These derived from wastes include leachates and residues from all types of waste treatment, including BDAT under the land disposal restrictions. See § 261.3(c)(2). A similar principle applies to wastes found in non-waste matrices, such as groundwater. See § 261.3(d)(2). Generators and treaters of derived from and contained in wastes subject to the land disposal restrictions must list all of the waste codes applying to the original wastes.

Commenters on the First Third rule, as well as members of the regulated community who have challenged that rule, have informed EPA that the combination of the new waste code requirements and the renewed focus on the nature of derived from and contained in wastes may seriously disrupt the operations of many facilities that treat or dispose of the treated residues. They maintain that the regulated community was not accustomed to listing all waste codes for these wastes with such particularity. Consequently, some permits for facilities that treat or dispose of these wastes may not contain the full array of waste codes needed to describe these complex waste matrices. According to at least one member of the regulated community, modifying permits to reflect all of the waste codes involved would take several years under current procedures for modifications. (Although interim status facilities may face similar problems, there is no need for a national rulemaking because the interim status rules already provide very flexible procedures for adding new wastes. See 40 CFR 270.72(a).)

Second, commenters have repeatedly stressed that permitted facilities need flexibility to add new treatment processes that would allow facilities to treat wastes to BDAT standards. EPA has recognized the need for this flexibility in other contexts. As explained above, EPA originally promulgated a final rule that provided such flexibility for the treatment of solvents, dioxins, and California list wastes, although the rule was later replaced by the new permit modification scheme. EPA also proposed similar flexibility for facilities operating under interim status in its August 14, 1987 facility changes proposal.

Finally, EPA notes that similar problems exist for derived from and contained in wastes that are subject to the "soft hammer" rules which now apply to First Third wastes and which will apply to some Second Thirds wastes after June 8, 1989. If EPA fails to set a treatment standard for a First Third or Second Third waste by the statutory deadline, the waste may not be placed in a landfill or surface impoundment unless the unit meets certain minimum technological requirements (relating to leachate collection and double liners). Furthermore, the waste must be treated to the most protective level achievable by practically available technologies. See 53 FR 31138, 33171–33181. Soft hammer wastes are also subject to the waste code reporting requirements described above. Consequently, EPA believes owners and operators of facilities that manage these wastes may need the same flexibility for adding new treatment processes to their facilities, and new waste codes to facility permits.

IV. Request for Further Comment

As explained above, EPA's interim status rules already provide simple procedures for adding new waste codes to a facility's interim status authorization. Also, EPA proposed in August 1987 to simplify procedures for adding new processes at interim status facilities when such processes were needed to provide treatment for restricted wastes, and when treatment took place in tanks and containers. EPA is today soliciting comment on the concept of expanding that rulemaking to provide flexiblity for permitted facilities that need to add waste codes or treatment processes to comply with the land disposal restrictions.

First, to address the treatment residue and contaminated environmental media issue, the Agency solicits comment on whether it would be appropriate to allow as a Class 1 modification, with prior Agency approval, the following change: The addition of new waste codes to a permit where the added waste is a restricted waste that meets the applicable treatment standards. This change would include treatment residues derived from restricted wastes treated to BDAT levels, as well as leachate, contaminated groundwater, or contaminated soils that are derived from or which contain restricted wastes and that meet the treatment standards. In addition, the Agency requests comment on whether these modifications should be restricted to cases where the receiving unit (if it is a landfill or surface

impoundment) meets minimum technology requirements.

EPA also solicits comment on the issue of whether a permit modification allowing the receipt of residues from treating soft hammer wastes should also be a Class 1 modification. The logic for allowing Class 1 modifications for residues from treatment technologies which are BDAT for similar wastes could apply as well to soft hammer waste treatment residues. Soft hammer wastes must be treated by the practically available technologies that yield the greatest environmental benefit (§ 268.8(a)(2)(ii)). In many cases these will be technologies which approximate those which eventually will be BDAT. Thus, allowing expedited permit amendments to accommodate receipt of "soft hammer" treatment residues serves the ultimate purpose of the land disposal restrictions and RCRA in general, in the same way as it would for residues resulting from BDAT processes. In addition, the Agency has been informed that the same type of practical problem can exist for soft hammer treatment residues as for other treatment residues. For example, incinerators could commingle first third soft hammer wastes (such as small batches of § 261.33 commercial chemical products) with other prohibited wastes so that the resulting incinerator ash carries the waste codes of the soft hammer wastes as well as the other prohibited wastes. It may prove difficult finding disposal facilities with all of the § 261.33 waste codes already in the disposal permit (assuming the facility has chosen to draft its permit application by using waste codes rather than narrative description).

On the issue of soft hammer wastes, the Agency particularly requests comments on whether Class 1 modifications should be available only to *treatment* residues for which a valid certification has been submitted pursuant to § 268.8. Allowing Class 1 modifications for untreated soft hammer wastes or wastes that have not been treated by the practically available technology that yields the greatest environmental benefit does not appear to advance the ultimate goals of the land disposal restrictions statutory provisions.

EPA is requesting comment on whether these waste code modifications should be limited to wastes meeting the treatment standards or treated soft hammer wastes for which EPA has received a valid certification. The rationale for this limitation would be that such treatment will reduce risks to levels where Class 1 modifications are appropriate.

Second, there may be situations where other types of wastes carrying multiple waste codes not presently subject to a treatment standard or to a soft hammer are sent to treatment facilities. Although the facility's level of treatment may approximate eventual BDAT, if the waste carries too many waste codes the treatment facility's permit could preclude immediate receipt. An example is leachate derived from the disposal of wastes in the second or third third of the schedule. EPA solicits comment on whether the rules should be amended to allow treatment facilities to add waste codes for such wastes to their permits by means of a Class 1 modifiction with prior Agency approval. To avoid potential abuses, and link any such modification to non-land-based treatment approximating BDAT, the Agency suggests limiting the modification to situations where only tank treatment, or treatment in enclosed devices like incinerators is involved and the treatment method involves metals recovery, metals precipitation, cyanide destruction, carbon adsorption, chemical oxidation, steam stripping, biodegradation, and incineration or other direct thermal destruction. This contemplated rule change thus draws on principles in the now superseded § 270.42(p), and the rescheduling in § 268.12 (b) and (c) (53 FR 31215, August 17, 1988).

EPA emphasizes that Federal RCRA regulations do not require that waste codes be listed in permits. The issue discussed in today's notice, however, arises in situations where a permit restricts a facility or unit to specific waste codes. These situations could be avoided if treatment residues were listed in the permit by a narrative description—such as, incinerator ash or other treatment residue derived in whole or in part from BDAT or certified (and valid) soft hammer treatment. In modifying existing permits, therefore, instead of adding waste codes, facilities may wish to incorporate a narrative description circumscribing the type of waste received, along the lines described above. EPA believes this action would be protective, given that any such residue could be measured against an objective benchmark of proper treatment—namely, meeting BDAT (or having a valid soft hammer certification) for any prohibited waste from which the treatment residue is derived. Under the approach described in today's notice, such a change could take place as a Class 1 modification, with prior Director approval.

Finally, the Agency solicits further comment on whether it should allow as a Class 1 modification, with prior Agency approval, the addition of new treatment processes, as long s those proceses are necessary to treat restricted wastes to meet treatment standards and the treatment processes are to take place in tanks or containers. This amendment would in effect reinstate the concept contained in the now superseded § 270.42(p).

The Agency is allowing a thirty-day comment period on these issues and, after review of comments, intends to move promptly to a final decision. In the meantime, it shoud be noted that the temporary authorization provisions in the permit modification rules are frequently available for facilities seeking to make changes necessary to comply with the land disposal restrictions. Because these authorizations are available for a six-month period (with the possibility of extension), the agency believes that permitted facilities have sufficient flexibility to comply with the land disposal restrictions until the issues discussed above are resolved.

V. State Authorization

No States have yet been authorized to carry out the new permit modifications regulations, and therefore authorized states do not now have the authority under RCRA to modify permits according to these procedures. However, as the Agency pointed out in the preamble to the final permit modification rule, EPA may authorize permit modifications to EPA-administered permits or permit conditions through the new procedures, where the changes are necessary to implement HSWA requirements, i.e., to achieve compliance with corrective action requirements or land disposal restrictions (53 FR 37933). Because the land disposal restrictions qualify as a HSWA requirement, the Agency now has the authority to approve temporary authorizations when necessary to allow compliance with the land disposal restrictions. Similarly, if the Class 1 modifications described above are adopted, the Agency would have the authority to approve them for EPA-administered permits or permit conditions until States were authorized for the procedures. It should be noted, however, that Federal authority in this area would not preempt more stringent authorized State standards. Where authorized State regulations or enforcement policies prohibit such

temporary authorizations or permit modifications, they would be precluded. Those states whose rules have the earlier major modifications—minor modification scheme may, however, be able as a matter of state law to consider the changes discussed in this notice to be minor permit modifications so long as doing so is no less stringent than the federal program. Facilities in authorized States seeking temporary authorizations to comply with the land disposal restrictions, therefore, should consult both with the appropriate EPA Regional office and the State permitting authority.

List of Subjects in 40 CFR Part 270

Administrative practice and procedure, Permit modifiction procedures.

Date: November 9, 1988.

J. Winston Porter,

Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 88-26588 Filed 11-16-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6920]

Proposed Flood Elevation Determinations; Florida; Correction

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 52 FR 46799 on December 10, 1987. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the City of Edgewater, Volusia County, Florida.

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

SUPPLEMENTARY INFORMATION: .

The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Edgewater, Volusia County, Florida previously published at 52 FR 46799 on December 10, 1987, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed modified base (100-year) flood elevations for selected locations are:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
		Existing	Modified
Atlantic Ocean.	About 1,600 feet northwest of the intersection of Park Avenue and Flagler Road.	None.	*6
	About 500 feet northeast of the intersection of Virginia Street and Riverside Drive.	*8	*9

Issued: November 10, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88-26579 Filed 11-16-88; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6923]

Proposed Flood Elevation Determinations; Florida; Correction

AGENCY: Federal Insurance Administration; Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 53 FR 4687 on February 17, 1988. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Unincorporated Areas of Volusia County, Florida.

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

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Volusia County, Florida previously published at 53 FR 4687 on February 17, 1988, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed modified base (100-year) flood elevations for selected locations are:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD)	
		Existing	Modified
Atlantic Ocean/ Intra-coastal Water-way.	Just west of intersection of John Anderson Drive and Highbridge Road.	*4	*4
	About 1800 feet east of the intersection of U.S. Route 1 and Joselyn Road.	*7	*8
	About 250 feet east of State Road A1A, south of the Flagler County/ Volusia County Boundary.	*11	*13

Issued: November 10, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88-26577 Filed 11-16-88; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6920]

Proposed Flood Elevation Determinations; Florida; Correction

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 52 FR 46799 on December 10, 1987. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the City of Ormond Beach, Volusia County, Florida.

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

SUPPLEMENTARY INFORMATION:

The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Ormond Beach, Volusia County, Florida previously published at 52 FR 46799 on December 10, 1987, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed modified base (100-year) flood elevations for selected locations are:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD)	
		Existing	Modified
Intra-coastal Water-way/ Halifax River.	About 400 feet east of the intersection of North Beach Street and Cameo Circle.	*4	*5
	About 500 feet east of the intersection of Wilmette Avenue and North Beach Street.	*6	*6

Issued: November 10, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88–26578 Filed 11–16–88; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Arabis Serotina (Shale Barren Rock Cress) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list a plant, *Arabis serotina* (shale barren rock cress) as an endangered species. It is found only in western Virginia and eastern West Virginia. Presently, 26 populations, totaling fewer than 1,000 reproductive individuals, are known. Many populations are adversely affected by deer browsing, construction and maintenance of roads and railroads, and livestock grazing. Several populations occur on Federal lands in the Monongahela and George Washington National Forests. This proposal, if made final, will implement the protection provided by the Endangered Species Act of 1973, as amended, for *Arabis serotina*. Critical habitat is not proposed at this time. The Service seeks data and comments from interested parties on this proposal.

DATES: Comments from all interested parties must be received by January 17, 1989. Public hearing requests must be received by January 3, 1989.

ADDRESS: Comments and materials concerning this proposal should be send to the Supervisor, Ecological Services Field Office, Suite 322, 315 S. Allen Street, State College, Pennsylvania 16823. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sharon W. Morgan, Fish and Wildlife Biologist (see **ADDRESSES** section) (814/234–4090).

SUPPLEMENTARY INFORMATION:

Background

Shale barren rock cress (*Arabis serotina* Steele), a member of the mustard family, is one of several plant species endemic to dry, exposed, and mid-Appalachian habitats known as shale barrens (Keener 1983). These unique shale of Paleozoic age are found in the Ridge and Valley Section of the Appalachian Mountains from Pennsylvania south to Virgina and West Virginia. Usually surrounded by deciduous forest woodlands, shale barrens are isolated islands of habitat characterized by steep southern exposures (generally greater than 20 degree slopes), relatively sparse vegetative cover, high temperatures and low moisture in the summer, and are usually undercut by a stream at the base (Keener 1983). Eighteen endemic plant taxa are recorded from the shale barrens, including *Arabis serotina* and three other Federal candidate plant species (*Allium oxyphilum, Taenidia montana, Trifolium virginicum*) (Keener 1983).

This species is biennial, with populations usually consisting of two age-classes: young, nonreproductive individuals present in basal rosette form; and second-year plants that are potentially reproductive individuals present in the form of erect, flowering plants lacking a basal rosette of leaves. Another component of populations is the seed bank, consisting of dormant, ungerminated seeds found either at the ground surface or buried in the soil. *A serotina* may not be a strict biennial, meaning that rosettes may persist longer than one year, resulting in a delay of flowering and fruiting beyond the second year. Plants typically grow to a height of one to two feet, with a spreading, compound inflourescence of many tiny whitish flowers, each less than one quarter-inch in length.

Originally described by Edward Steele in 1911, the species has been confused with the morphologically similar *Arabis Laevigata* (Muhl.) Poir var. *burkii* Porter. Hopkins (1937) reduced *Arabis serotina* to synonymy under *Arabis laevigata* var. *burkii*. Both taxa occur on shale barrens, although the latter is not an endemic. Wieboldt (1987a, 1987b) has shown that *Arabis serotina* is distinguished from *Arabis laevigata* var. *burkii* by several key characteristics. *A. serotina* is taller with wider and more-branched inflorescences, and has smaller flowers and more narrowly winged seeds than *A. laevigata* var. *burkii*. There are also considerable differences between the flowering periods of the two taxa. All varieties of *A. laevigata*, including var. *burkii*, bloom in April and May and set seed before *Arabis serotina* begins to bloom in late June or early July. *Arabis serotina* continues to bloom into September (Wieboldt 1987b).

Arabis serotina is presently known from only 26 populations in five Virginia counties (Allegheny, Augusta, Bath, Highland and Rockbridge) and three West Virginia counties (Greenbrier, Hardy and Pendleton). An additional 1934 record from Shenandoah County,

Virginia has not been relocated and is considered historic. The species has never been documented to be more widespread, and the reported distribution in seven West Virginia counties (Strausbaugh and Core 1978) was based on collections of *A. laevigata* var. *burkii* (Bartgis 1985). The species' highly restricted range appears to be a result of biogeographic events and not due to recent land-use changes or the lack of suitable habitat elsewhere. During 1983–85, a survey of 70 shale barrens in eight West Virginia counties resulted in only a few new populations (Bartgis 1985). Searches of 15–20 barrens in the range of *A. serotina* in Virginia revealed few additional populations (M. Lipford, Virginia Natural Heritage Program, pers. comm. 1988).

In both Virginia and West Virginia, all populations occur on Brallier Formation shales on south- to southwest-facing slopes at elevations of 1300 to 2500 feet. Most of the known populations occur partially or completely in the George Washington and Monongahela National Forests.

Populations are fairly small at all 26 locations. Since plants in the rosette stage are inconspicuous and easily overlooked, most population counts refer to only flowering and/or fruiting plants. Approximately 130 reproductive plants were found at the 13 Virginia sites in 1987 (M. Lipford, pers. comm. 1987) and only about 700 reproductive individuals comprised the 13 West Virginia populations in 1985 (Bartgis in press). Although a few additional populations may be located in the future, the typically small population sizes suggest that the total number of individuals will remain small. In both states, most populations are moderately to severely browsed by deer. Rangewide, sites have been affected to some degree by road or railroad construction, small flood-control projects, and grazing by livestock.

The U.S. Fish and Wildlife Service (Service) recognized *Arabis serotina* as a Category 2 candidate for listing in the Supplement to Review of Plant Taxa for Listing as Endangered or Threatened Species published in the **Federal Register** on November 28, 1983 (48 FR 53641). Category 2 comprises those taxa for which listing is possibly appropriate but for which existing information is insufficient to support a proposed rule. The updated notice of review for plant taxa published on September 27, 1988 again included *Arabis serotina* in Category 2.

In 1985, the Service contracted with The Nature Conservancy's Eastern Regional Office to conduct status survey work on *Arabis serotina* and other Federal candidate species. Those reports (Bartgis 1985, Rawinski and Cassin 1986) documented a high degree of threat at most *Arabis serotina* sites and recommended immediate listing by the Service.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (codified at 50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Arabis serotina* Steele (shale barren rock cress) are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* In West Virginia, five of the shale barrens supporting known populations of *Arabis serotina* have been partially destroyed by road construction and sixth was affected by a small flood-control dam which degraded the habitat available for the species (Bartgis in press). In Virginia, three shale barrens supporting known *Arabis serotina* populations were partially destroyed by road construction, two were damaged by railroad construction, and one is crossed by a hiking trail (T. Wieboldt, Virginia Polytechnic Institute, pers. comm. 1987). The extent of the impacts of all these projects upon the *Arabis serotina* populations is unknown. Two of the West Virginia populations have been grazed by sheep or goats in the past. While no longer grazed by livestock, presently both sites have little vegetation, marked erosional features, and very few *Arabis serotina* individuals (Bartgis in press).

B. *Overutilization for commercial, recreational, scientific or educational purposes. Arabis serotina* is not known to be used for any commercial or recreational purpose. Because of its rarity, it may be subject to collection by botanists and curiosity seekers. Since most populations consist of 20 or fewer individuals, collection or vandalism at those sites could eliminate populations.

C. *Disease or predation.* The larvae of the butterfly Olympia marble (*Euchloe olympia*) have been reported to feed on *Arabis serotina* (Clench and Opler 1983), but the report is believed erroneous. Timing of larval emergence suggests that they feed on *A. laevigata* var. *burkii* (Bartgis in press). White-tailed deer (*Odocoileus virginianus*) are known to heavily browse *Arabis serotina* populations.

As in many northeastern states, deer populations are increasing in both Virginia and West Virginia, resulting in greater browsing pressure on many herbaceous plants. In West Virginia, eight of eleven *A. serotina* populations surveyed in 1985 had been browsed by deer resulting in partial or complete loss of 15 to 70% (average 30%) of the inflorescences in those populations. For example, in an unusually large population of 124 plants only 47 plants successfully set seed (Bartgis in press). At three Virginia populations with only one or two reproductive individuals each, all were browsed in 1987 (M. Lipford pers. comm. 1987). Since the plant is a biennial inhabiting a stressful environment, such a significant loss of propagules in any given year could lead to lower reproductive success. As the median reproductive population size observed in West Virginia during 1985 was 17 plants, and in Virginia during 1987 was seven plants, any minor decreases in reproductive potential through grazing or other means could completely eliminate populations.

D. *Inadequacy of existing regulatory mechanisms. Arabis serotina* is not currently protected by any state or local laws or regulations. Four populations in West Virginia and seven in Virginia occur in established National Forest Special Interest Areas (U.S. Dept. of Agriculture 1986a, 1986b). These areas are managed by the Forest Service to protect the habitat and species present. Some of these populations extend onto adjacent private land. Special Interest Areas (SIA) are not permanent designations and may be revoked by the administrating national forest. Although the SIA designation prevents habitat alteration, it does not provide protection from threats such as deer predation that may adversely affect these populations.

One West Virginia population occurs on a shale barren leased by The Nature Conservancy (TNC), and that organization is also securing voluntary protection of at least two additional populations. These voluntary agreements have no binding legal status. The ten populations on private land are not protected by any laws or regulations.

E. *Other natural or manmade factors affecting its continued existence.* Shale barren communities are relatively long-term features of the landscape, but may gradually be replaced by woodlands through succession (Keener 1983). However this process is slow and is unlikely to affect more than a very few *Arabis serotina* populations in the near future.

A. serotina is the most sporadic and rarest of the shale barren endemics (Wieboldt *in* Rawinski and Cassin 1986) and recent surveys show that populations have declined in the past few years. In addition to predation by deer, populations have been adversely affected by severe droughts in 1987 and 1988. One Virginia shale barren supported 100 reproductive individuals in 1985, but in 1987 only nine were found. Another Virginia shale barren showed three individuals in 1984 but none was found in 1987 (M. Lipford, pers. comm. 1987). At one West Virginia barren which had 136 reproductive individuals in 1985, only 12 plants set fruit in 1987 (Bartgis in press).

Many biennial species typically exhibit fluctuations in population numbers from year to year; however, repeated loss of reproductive individuals several seasons in succession poses a serious threat to long-term survival of the species. Low population numbers combined with continually decreasing contributions to the seed bank result in the species being particularly vulnerable to any natural or human-caused stresses. No attempt has been made to assess the size of the seed bank at any population. If present trends continue, the future of smaller populations will be highly uncertain.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Arabis serotina* as endangered. Habitat degradation and loss of reproduction through grazing pose severe problems to the continued existence of the species. Although 26 populations are known, 15 of these populations number 20 or fewer individuals, making the species particularly vulnerable to any threats. In addition, most of the available shale barren habitat for this species has been inventoried, making it unlikely that many new populations will be found.

Critical Habitat

Section 4(a)3 of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Arabis serotina* at this time. Very small population sizes make this species particularly threatened by any vandalism or collecting. Since it occurs in unique, easily-identified habitats, publication of critical habitat maps may result in vandalism and collection by curiosity seekers. Although listing would prohibit removal and reduction to possession, or malicious damage or destruction, on Forest Service lands, and removal, cutting, digging up, or damaging in knowing violation of any State law or regulation, including State criminal tresspass law, publishing critical habitat maps would increase enforcement problems. The Forest Service, The Nature Conservancy and landowners of major populations on private land have been informed of population locations and the importance of protecting the species' habitat. Listing will result in habitat protection through the recovery process and Section 7 consultations. Therefore, it would not be prudent to determine critical habitat for *Arabis serotina*.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act were codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The U.S. Department of Agriculture, Forest Service partially or completely owns sixteen of the known *Arabis serotina* populations. Activities in these areas that may affect the species would require Section 7 consultation.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. With respect to *Arabis serotina*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Arabis serotina;*

(2) the location of any additional populations of *Arabis serotina* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) additional information concerning the range and distribution of this species; and

(4) current or planned activities in the subject area and their possible impacts on *Arabis serotina*.

Final promulgation of the regulations on *Arabis serotina* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Supervisor, Ecological Services Field Office (see **ADDRESSES** section).

National Environmental Policy Act

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

References Cited

Bartgis, R. 1985. Status surveys in West Virginia—Results and analysis of investigations of *Allium oxyphilum, Arabis serotina, Ptilimnium fluviatile,* and *Trifolium stoloniferum.* Unpublished report. West Virginia Field Office, The Nature Conservancy.

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Author

The primary author of this proposed rule is Sharon W. Morgan (see **ADDRESSES** section) using substantial information provided by Rodney L. Bartgis, West Virginia Department of Natural Resources.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

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

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. It is proposed to amend § 17.12(h) for plants by adding the following, in alphabetical order, under the family Brassicaceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Brassicaceae—Mustard family:						
*	*	*	*	*	*	*
Arabis serotina	Shale barren rock cress	USA (VA, WV)	E		NA	NA
*	*	*	*	*	*	*

Dated: October 25, 1988.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-26637 Filed 11-16-88; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 81008-8208]

Fee Schedule for Foreign Fishing; Corrections

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

ACTION: Proposed rule; corrections.

SUMMARY: This document corrects errors in the proposed foreign fee schedule for 1989 which was published November 1, 1988 (53 FR 44047) in FR Doc. 88-25260. An outdated telephone number was given for the telephone contact in the preamble and an incorrect list of proposed poundage fees was published in Table 1 in the regulatory text. The correct proposed poundage fees were listed in the next to last column of Table 2 of the preamble.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, 301–427–2339.

SUPPLEMENTARY INFORMATION: The following corrections are made:

1. On page 44047, column 1, under the **"FOR FURTHER INFORMATION CONTACT"** heading, the telephone number is corrected to read "301–427–2339."

§ 611.22 [Corrected]

2. In § 611.22(b)(1), page 44050, column 3 replace "Table 1. Species and Poundage Fees" with the following, corrected "Table 1. Species and Poundage Fees".

TABLE 1.—SPECIES AND POUNDAGE FEES

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	274.61
2. Hake, red	163.97
3. Hake, silver	174.63
4. Herring, river	61.76
5. Mackerel, Atlantic	68.43
6. Other groundfish	119.09
7. Squid, *Illex*	103.98
8. Squid, *Loligo*	245.73

TABLE 1.—SPECIES AND POUNDAGE FEES—Continued

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Atlantic and gulf fisheries:	
9. Shark, Atlantic	187.96
10. Shrimp, royal red	(1)
Alaska fisheries:	
11. Pollock, Alaska	95.09
12. Cod, Pacific	143.97
13. Pacific ocean perch	195.96
14. Rockfish, other	326.15
15. Mackerel, Atka	116.64
16. Squid, Pacific	75.10
17. Flounders	83.09
18. Sablefish (Gulf of Alaska)	399.03
19. Sablefish (Bering Sea and Aleutian Islands)	210.18
20. Groundfish, other	106.64
21. Snails	128.42
Pacific fisheries:	
22. Whiting, Pacific	78.21
23. Sablefish	415.47
24. Pacific ocean perch	320.38
25. Rockfish, other	335.93
26. Flounders	316.62
27. Mackerel, jack	254.61

TABLE 1.—SPECIES AND POUNDAGE FEES—Continued

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
28. Groundfish, other	406.58
Western Pacific fisheries:	
29. Coral [2]	91.54
30. Dolphin fish	2,450.59
31. Wahoo	980.24
32. Sharks	490.12
33. Marlin, striped	823.82
34. Billfish	882.03
35. Swordfish	1,038.45

[1] Reserved.
[2] Dollars per kilogram.

Authority: 16 U.S.C. *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, 16 U.S.C. 1361 *et seq.*

Dated: November 9, 1988.

Bill Matuszeski,

Executive Director.

[FR Doc. 88–26520 Filed 11–16–88; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 53, No. 222
Thursday, November 17, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Public Advisory Committee for Trademark Affairs; Meeting

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the open meeting of the Public Advisory Committee for Trademark Affairs.

DATE: The Public Advisory Committee for Trademark Affairs will meet from 10:00 a.m. until 4:00 p.m. on January 10, 1989.

Place: U.S. Patent and Trademark Office, 2121 Crystal Drive, Crystal Park 2, Room 912, Arlington, Virginia.

Status: The meeting will be open to public observation; approximately twelve (12) seats will be available for the public on a first-come-first-served basis. Members of the public will be permitted to make oral comments of three (3) minutes each. Written comments and suggestions will be accepted before or after the meeting on any of the matters discussed. Copies of the minutes will be available upon request.

Matters to be considered: The agenda for the meeting is as follows:

(1) Implementation of Trademark Reform Act of 1988
(2) Public Access to PTO Trademark Automated Systems
(3) Miscellaneous Issues Regarding Application Examination and Registration Maintenance

Contact person for more information: For further information, contact Carlisle E. Walters, Office of the Assistant Commissioner for Trademarks, Room CPK2–910, Patent and Trademark Office, Washington, DC 20231. Telephone: (703) 557–7464.

Donald J. Quigg,
Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 88–26583 Filed 11–16–88; 8:45 am]
BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a New Export Visa and Exempt Certification Arrangement for Certain Textiles and Textile Articles Produced or Manufactured in the People's Republic of Bangladesh

November 14, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a new export visa and exempt certification arrangement.

EFFECTIVE DATE: November 17, 1988.

Authority: E.O. 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION: During recent negotiations, the Governments of the United States and the People's Republic of Bangladesh agreed to establish a new export visa and exemption certification arrangement.

A copy of the arrangement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–1998.

A description of the textile and apparel categories in terms of T.S.U.S.A. numbers is available in the *Correlation:* Textile and Apparel Categories with Tariff Sehedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). A description of the textile and apparel categories in terms of HTS numbers is available in the *Correlation:* Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States Annotated (see **Federal Register** notice 53 FR 44937, published on November 7, 1988.)

Ronald I. Levin,
Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 14, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of February 19 and 24, 1986, as amended, between the Governments of the United States and the People's Republic of Bangladesh; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 17, 1988, entry into the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of textiles and textile articles of cotton, wool and man-made fibers in Categories 200–239, 300–369, 400–438, 439, 440–469 and 600–670, including merged Categories 338/339, 340/640, 342/642, 347/348, 638/639, 645/646 and 647/648, produced or manufactured in Bangladesh and exported on and after November 17, 1988 from Bangladesh for which the Government of the People's Republic of Bangladesh has not issued an appropriate visa or exempt certification fully described below. Should additional categories, merged categories or part categories be added to the bilateral agreement or become subject to import quotas, the entire category or categories shall be automatically included in the coverage of the visa arrangement. Merchandise exported on or after the date the category(s) is added to the agreement or becomes subject to import quotas shall require a visa. Notification will be provided when additions or changes are made.

A visa must accompany each commercial shipment of the aforementioned textiles and textile articles. A circular stamped marking in blue ink will appear on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the commercial invoice. The original of the invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be the standard nine digit numbers and letters, beginning with one numerical digit for the last digit of the calendar year in which the shipment was exported, followed by the International Organization for Standardization (ISO) code for Bangladesh, and six digit numerical serial number identifying the shipment; e.g., 9BD123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The signature of the issuing official.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity provided for in the U.S. Department of Commerce CORRELATION and in the U.S. Tariff Schedule(s) of the United States Annotated (e.g., "Cat. 340–510 DZ").

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

If the visa is not acceptable to the U.S. Customs Service, a new visa must be obtained from the Government of the People's Republic of Bangladesh or a visa waiver issued by the Bangladeshi Government through the U.S. Department of Commerce and presented to the U.S. Customs Service before any portion of the shipment will be released. The waiver, if used, does not waive any applicable quota requirements.

If the visa is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or visa waiver.

If import quotas are in force, U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit. If a shipment from Bangladesh has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, U.S. Customs shall charge the shipment to the correct category limit whether or not a replacement visa or visa waiver is provided.

Certain textiles and textile articles shall be exempt from levels of restraint and visa requirements if properly certified by the Government of the People's Republic of Bangladesh by the placing of the original rectangular-shaped stamped marking in blue ink on the front of the original commercial invoice. The original copy of the invoice with the original exempt certification will be required to enter the shipment into the United States. Duplicate copies of the invoice and/or exempt certification may not be used.

The exempt products include (1) floor coverings provided for in TSUS items 360.06, 360.10, 360.12, 360.76, 360.78, 361.42, 361.45 and 361.54; (2) handloomed fabrics of the cottage industry; (3) handmade textile products made in the cottage industry from handloomed fabrics; and (4) traditional forklore handicraft products designated as "Bangladeshi Items" (Annex A).

Each exempt certification stamp will include (1) date of issuance; (2) signature of issuing official; and (3) the basis for the exemption. The basis for exemption shall be noted as: (a) floor coverings [including the applicable TSUSA or HTS item]; (b) handloomed fabric; (c) handmade textile products; or (d) the name of the particular traditional forklore handicraft product (Bangladeshi item).

Should a shipment be exported from Bangladesh without an exempt certification being issued prior to the date of exportation or the certification is incorrect (i.e., the date of issuance, signture or basis for exemption is missing, incorrect or illegible or have been crossed out or altered in any way), then the exempt certification will not be accepted and entry shall not be permitted.

If the exempt certification is not acceptable then a visa or visa waiver must be obtained prior to release of any portion of the shipment by the U.S. Customs Service. An exempt certification may not be issued after exportation of the shipment from Bangladesh. If quotas are in force, the shipment will be charged to the appropriate quota level.

An invoice may cover visaed merchandise or exempt certified merchandise, but not both.

Any shipment which requires a visa but which is not accompanied by a valid and correct visa or an exempt certification in accordance with the foregoing provisions shall be denied entry by U.S. Customs Service unless the Government of the People's Republic of Bangladesh authorizes the entry and any charges to the agreement levels through the visa waiver process.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments values at U.S. $250 or less, do not require a visa or exempt certification for entry and shall not be charged to the agreement levels.

Facsimiles of the visa and certification stamps (Annex B) and a list of officials authorized by the Government of the People's Republic of Bangladesh (Annex C) are enclosed with this letter.

The actions taken with respect to the Government of the People's Republic of Bangladesh and with respect to imports of textiles and textile articles of cotton, wool and man-made fibers from Bangladesh have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the Federal Register.

Sincerely,

Ronald I. Levin.

Acting Chairman, Committee for the Implementation of Textile Agreements.

Annex A—Bangladeshi Items

These are items that are uniquely and historically traditional Bangladeshi products. All these items mentioned in this list are made from woven fabric. Additional items may be included after consultation and mutual agreement of both governments.

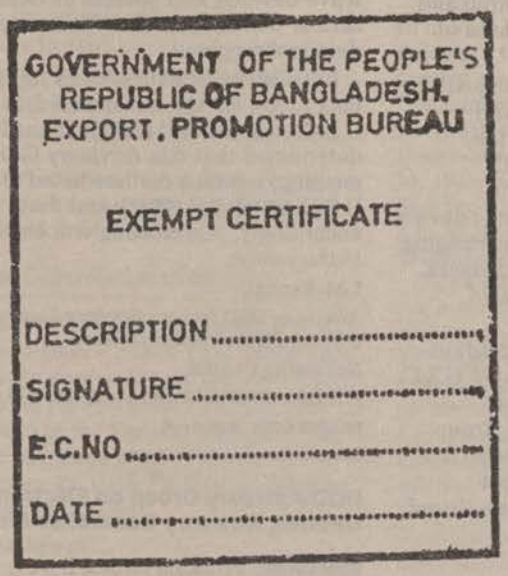
1. Embroidered Kaftan.	Ankle length loose fitting dress with embroidery around top and bottom with side slits of about 18 inches from the lower hem and with traditional Bangladeshi hand embroidery or hand batik printing.
2. Panjabi.....	This is a men's and boys' shirt type garment made from cotton or man-made fabric, plain or colored, hand embroidered, or painted, or batik decorated, or batik printed, without collar and with half or full sleeve, with partial front opening with or without buttons. The tails extend from finger tip to knee. This is a typical Muslim ceremonial dress of Bangladeshi men and boys; and has been used from ancient times for Muslin festivals.
3. Bell-Sleeve Evening Blouse.	A women's garment traditionally used by Bangladeshi women and girls for covering upper part of the body and traditionally worn under a sari, made from cotton or man-made fabric, patterned or plain, embroidered or printed. A short, tight fitting blouse ending above the waist with untapered half sleeves without collar. This is a women's folklore blouse, having a long Bangladeshi tradition.
4. Salwar	Plain or designed or printed, loose fitting trousers secured with drawstring or hooks with legs that are straight or baggy with extra fullness at the thighs made from cotton or man-made fiber fabrics, traditionally worn with kameez. Must be imported with a kameez, and if for women or girls, with a dopatta.
5. Kameez.....	Long tunic, untapered, plain or printed or embroidered, half, three quarter, or full sleeve, made form cotton or man-made fiber fabric traditionally worn with salwar with length down to knee level, with partial opening with buttons in front or back. Must be imported with a salwar, and, if for women or girls, with dopatta.
6. Dopatta.....	A long scarf measuring from 72 to 120 inches long and 36 to 40 inches wide traditionally worn by Muslim women and girls in Bangladeshi with salwar and kameez. Must be imported with a salwar and kameez.

7. Lungi	A traditional garment worn as outerwear from waist-down to ankle, 45 to 50 inches in width and having a circumference of 70 to 80 inches, in tubular form, made from cotton or man-made fiber fabric.
8. Borka	A loose overall, two piece garment dress, ankle length, with hood portion containing veil for covering face worn by Muslim women and girls of Bangladesh when going out of the house. Made from cotton or man-made fiber of a solid color, with a full front opening with buttons.
9. Kurta	A men's and boys' shirt type garment similar to a panjabi, or mid-thigh length of cotton or man-made fiber fabric, with no collar or a one inch stand up collar, with full or half sleeves, with a partial front opening with or without buttons.
10. Batwa	Small drawstring pouches used by women and girls for carrying betel nut and small personal things. Printed and hand embroidered.
11. Nakshi Kantha.	Traditional hand stitched, extensively hand embroidered, wall hanging with a design depicting rural life or folkore motifs made from cotton, silk, or man-made fibers.
12. Batik Wall Hangings.	Cut pieces of cotton, silk, or man-made fiber fabric that have been printed using the batik process.

BILLING CODE 3510-DR-M

ANNEX B

Specimen of Textile Visa Stamp and
Textile Visa Exempt Certificate



BILLING CODE 3510-DR-C

Annex C—Officials Authorized To Sign Visas and Exempt Certifications

Mr. Ziaul Islam Choudhury, Director (Tex) Export Promotion Bureau, Dhaka
Mr. Kazi Mahbubur Rahman, Dy. Director (Tex), Export Promotion Bureau, Dhaka
Mr. K.M. Saleheen, Dy. Director (Tex), Export Promotion Bureau, Dhaka

[FR Doc. 88-26678 Filed 11-15-88; 11:56 am]

BILLING CODE 3510-DR-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: DoD FAR Supplement Part 245, "Government Property"; Supplement 3 to the DoD FAR Supplement; DD Forms 1149, 1342, 1419, 1640, 1651, and 1662; and OMB Control Number 0704-0246.

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: 8.58 Hours.

Frequency of Response: On occasion; annually.

Number of Respondents: 163,322.

Annual Burden Hours: 1,044,450.

Annual Responses: 238,175.

Needs and Uses: The information collection concerns 5 areas: (1) Resubmission of basic approval for DFARS Part 245; (2) resubmission of the collection regarding DD Form 1662; (3) resubmission of the collection regarding DD form 1861-1; (4) resubmission of a collection regarding No Cost Storage Agreements; and (5) a new collection regarding Contractor Material Management and Accounting Systems.

Affected Public: Businesses or other for-profit.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ms. Eyvette R. Flynn.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eyvette R. Flynn 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.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

November 10, 1988.

[FR Doc. 88-26642 Filed 11-16-88; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group C (Mainly Opto Electronics) of the DOD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday and Wednesday, 6 and 7 December 1988.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Gerald Weiss, AGED Secretariat, 201 Varick Street, New York 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging devices, infrared detectors and lasers. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

November 10, 1988.

[FR Doc. 88-26643 Filed 11-16-88; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Notice of Advisory Committee Meeting

SUMMARY: Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Friday, 9 December 1988.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc. 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Harold Summer, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 10, 1988.

[FR Doc. 88-26644 Filed 11-16-88; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Thursday, 15 December 1988.

ADDRESS: The meeting will be held at Headquarters 6th Army, Bldg. 35, Command Conference Facility, Keyes Street, The Presidio of San Francisco, California 94129–7000.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The Microelectronics area includes such programs as integrated circuits, charged coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

L. M. Bynum,

Alternate OSD Federal Register Liasion Officer, Department of Defense.

November 10, 1988.

[FR Doc. 88–26645 Filed 11–16–88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Follow-on Forces Attack (FOFA); Cancellation of Meeting

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Follow-on Forces Attack (FOFA) scheduled for November 16, 1988 as published in the **Federal Register** (Vol. 53, No. 185, Page 37027, Friday, September 23, 1988, FR Doc 88–21800) has been cancelled.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 14, 1988.

[FR Doc. 88–26646 Filed 11–16–88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Low Observable Technology

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Low Observable Technology will meet in closed session on December 2, 1988 and February 14–15, 1989 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate low observable technology.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

November 14, 1988.

[FR Doc. 88–26647 Filed 11–16–88; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 6, 1988; Tuesday, December 13, 1988; Tuesday, December 20, 1988; and Tuesday, December 27, 1988 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 10, 1988.

[FR Doc. 88–26648 Filed 11–16–88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committeee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 6–7 December 1988.

Time: 0900–1600 hours, 6 December 1988; 0900–1200 hours, 7 December 1988.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup on Space Systems will meet for classified briefings and discussions reviewing matters that are an integral part of or related to the issue of the study effort. The subgroup is tasked with a comprehensive review of space concepts, technology, and related issues. These meetings will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude

opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88–26606 Filed 11–16–88; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 13 December 1988, 0900–1630 hours; 14 December 1988, 0900–1300 hours.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup on Toxic and Hazardous Waste Management will conduct its first meeting. Briefings will be conducted by various members of the Army research community with respect to the Terms of Reference. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88–26607 Filed 11–16–88; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Scoping Meeting on the Environmental Impact Statement on Proposed Siting, Construction and Operation of New Production Reactor Capacity

AGENCY: Department of Energy (DOE).

ACTION: Announcement of additional public scoping meeting.

SUMMARY: DOE announces its intent to hold an additional public scoping meeting on the Environmental Impact Statement (EIS) to be prepared on the proposed siting, construction and operation of new production reactor (NPR) capacity. The additional public scoping meeting will be held in Moscow, Idaho on December 2, 1988. The DOE previously announced the schedule of public scoping meetings on September 16, 1988 (53 FR 36094) and October 25, 1988 (53 FR 43003). This amendment is intended to provide all interested parties with advance notice of the additional meeting to assure full and informed public participation.

DATES: An additional public scoping meeting will be held at the following time and place:

Date: December 2, 1988

Place: Moscow Community Center, 206 East 3rd Street, Moscow, Idaho

Times: 1–5 p.m. and 7–10 p.m.

For those persons who wish to make oral statements at any of the remaining NPR public scoping meetings, the deadlines for preregistration are as follows:

Meeting location/ date	Preregistration deadline	Sponsoring site
Chubbock, ID/Nov. 18, 1988.	Nov. 15, 1988.	Idaho.
Richland, WA/Nov. 29, 1988.	Nov. 22, 1988.	Hanford.
Aiken, SC/Nov. 29, 1988.	.....do.....	Savannah River.
Moscow, ID/Dec. 2, 1988.	Nov. 28, 1988.	Idaho.
Spokane, WA/Dec. 1, 1988.	Nov. 25, 1988.	Hanford & Idaho.
Augusta, GA/Dec. 1, 1988.	.....do.....	Savannah River.
Savannah, GA/Dec. 5, 1988.	Nov. 29, 1988.	Savannah River.
Portland, OR/Dec. 6, 1988.	Nov. 30, 1988.	Hanford.
Columbia, SC/Dec. 7, 1988.	Dec. 1, 1988..	Savannah River.
Seattle, WA/Dec. 8, 1988.	Dec. 2, 1988..	Hanford.

The end of the EIS public scoping period (Dec. 15, 1988) remains unchanged. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Requests to speak at the public scoping meetings and written comments on the scope of the EIS should be submitted to:

Mr. Peter J. Dirkmaat (Idaho Site), U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402, (208) 525–6666

or

Mr. Tom Bauman (Hanford Site), U.S. Department of Energy, Richland Operations Office, 823 Jadwin Avenue, Room 157, Richland, WA 88352, (509) 376–7501

or

Mr. S.R. Wright (Savannah River Site), U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29802, (803) 725–3957.

SUPPLEMENTAL INFORMATION: On September 16, 1988, DOE published a Notice of Intent (NOI) in the **Federal Register** announcing the Department's intent to prepare an EIS on the siting, construction and operation of NPR capacity. The NOI provided background information on the proposed action, reasonable alternatives, and a list of potential issues to be considered in preparation of the EIS. In the NOI, DOE invited all interested parties to submit written comments on the proposed scope of issues to be analyzed in the EIS and announced a schedule of public scoping meetings where persons may present oral comments on the scope of the EIS. Comments and suggestions received during the scoping period will be considered in preparing the draft EIS

The NOI was amended on October 25, 1988, in the **Federal Register** to announce the addition of a scoping meeting in Chubbock, Idaho; various administrative changes; and clarification of language used in the NOI.

This amendment to the NOI announces that a public scoping meeting will also be held in Moscow, Idaho. The preregistration deadlines are intended to allow the Department sufficient time (three working days) to prepare and post the lists of preregistered speakers for each meeting location. Persons wishing to speak at the scoping meetings who do not register before these deadlines may still register at the door of a particular meeting and be given an opportunity to speak after all preregistered speakers have presented their comments, as time permits. Written and oral comments will be given equal weight in the scoping process.

Signed in Washington, DC, this 15th day of November, 1988, for the United States Department of Energy.

Ernest C. Baynard, III,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 88–26762 Filed 11–16–88; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee

Date and Time: Tuesday, December 6, 1988, 8:30 a.m.–5:00 p.m.; Wednesday, December 7, 1988, 8:30 a.m.–12:00 p.m.

Location: U.S. Department of Energy, Forrestal Building, Room 6E–069, 1000 Independence Avenue S.W., Washington, DC 20585.

Contact: N. Anne Davies, Office of Fusion Energy, Office of Energy Research, ER–51, U.S. Department of Energy, Mail Stop J–204, Washington, DC 20545, Phone: (301)–353–4941.

Purpose of the Committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

MFAC—Agenda Outline

December 6, 1988

1. 8:30 a.m. Welcome and Announcements—F. Ribe
2. Address to MFAC and new MFAC charge 22—R. Hunter
3. Recent Office of Fusion Energy programmatic activities—J. Clarke
4. Panel 21, ECH report (Lunch, Forrestal Cafeteria)—J. Leiss, L. Berry
5. ITER Status Report—J. Gilleland CIT Status Report—H. Furth, D. Montgomery
6. Report on DOE Confinement Task Force—J. Callen
7. Auburn University Program—G. Swanson
8. MFAC Panel 21 Discussion
9. New Charge 23
10. National Academy of Sciences Plasma Science Committee—D. Baldwin
11. Public Comments—(Adjourn 5:30 p.m.)

MFAC—2nd Day

December 7, 1988

1. 8:30 a.m. Summary of Tokamak Results from the Nice, France, IAEA Meeting—R. Parker
2. Summary of Alternate Concepts from Nice, France, IAEA Meeting—J. Sheffield
3. MFAC Panel 21 Finalization
4. American Physical Society Panel on Priorities in Science—H. Furth
5. Public Comments—(Adjourn 12:00 Noon)

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Anne Davies at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available for public review and copying approximately 30 days following the meeting at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on November 10, 1988.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 88-26649 Filed 11-16-88; 8:45 a.m.]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-463-000 et al.]

Connecticut Light and Power 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. Connecticut Light and Power Company

[Docket No. ER88-463-000]

November 8, 1988.

Take notice that on October 24, 1988, Connecticut Light and Power Company (CL&P) tendered for filing an amendment to a proposed initial rate schedule with respect to a Transmission Service, transformation and Distribution Agreement dated May 15, 1988 between CL&P and Aetna Life Insurance Company (Aetna).

CL&P states that the amendment was filed in response to a deficiency letter from the Commission in which the Commission raised several questions regarding justification of CL&P's transmission rate. CL&P states that it proposes to revise the formula for the transmission rate and it is providiing backup for this new formula in response to the Commission's letter.

CL&P states that a copy of this material has been mailed to Aetna.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Comment date: November 17, 1988, in accordance with Standard Paragrpah E at the end of this notice.

2. Niagara Mohawk Power Corporation

[Docket No. ER87-612-002]

November 9, 1988.

Take notice that on November 3, 1988, Niagara Mohawk Power corporation (Niagara Mohawk) tendered for filing, pursuant to the Commission's letter order dated September 20, 1988, its Compliance Refund Report. Niagara Mohawk states that on October 19, 1988, as corrected on Ocober 25, 1988 and November 1, 1988, it tendered a total of $605,091.27 (principal and interest) to the New York Power Authority for ultimate refund to the affected customers.

Niagrara Mohawk states that copies of its Report were served on the New York Public Service Commission, all parties to the proceeding, and all entities entitled to receive the rate change application initiating this proceeding.

Comment Date: November 28, 1988, in accordance with standard Paragraph E at the end of this notice.

3. Duke Power Company

[Docket No. ER84-177-006]

November 9, 1988.

Take notice that on October 18, 1988, Duke Power Company tendered for filing a Compliance and Refund Report. Duke Power Company states that this refund is applicable to three customers: the City of Abbeville, the Town of Seneca, and Lockhart Power Company. Although the refund period includes March 1984 through the Auugst 1988 bill, it was applicable to each customer for a different period of time.

Comment dated: November 18, 1988, in accordance with standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rule 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. 88-26570 Field 11-16-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2335-006 Maine]

Central Maine Power Company, Availability of Environmental Assessment

November 9, 1988.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a change in land rights for the Williams Hydroelectric Project, on the Kennebec River, Maine, and has prepared an Environmental Assessment (EA) for the proposed action. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed amendment and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26568 Filed 11-16-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2232 et al.]

Hydroelectric Applications, Duke Power Co. et al.; Applications Filed with the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Request for authorization to issue permits to construct marina facilities on Lake Norman.

b. Project No.: 2232-180, -181, -196, -203, -204, -205, -208, & -210.

c. Date Filed: January 21 and 25, May 13, June 17, and 30, July 1, and September 2 and 29, 1988, respectively.

d. Applicant: Duke Power Company.

e. Name of Project: Catawba-Wateree Hydroelectric Project.

f. Location: Lake Norman, North Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. John E. Lansche, Associate General Counsel, Duke Power Legal Department, P.O. Box 33189, Charlotte, NC 28242, (704) 373-4871.

i. FERC Contact: Mr. Brian Romanek, (202) 376-9042.

j. Comment Date: December 15, 1988.

k. Description of Request: Duke Power has requested authorization to issue permits for the construction and operation of marina facilities at seven locations on Lake Norman (Lake). Duke Power states that it would be in the best interest of all parties to approve the marina facilities. In total, the proposed facilities would consist of: (1) 33 boat dock facilities with 681 boat slips; (2) four boardwalks having a total length of about 1,700 feet; (3) approximately 7,000 feet of shoreline stabilization (rip-rap or bulkheads) would be installed; and (4) one causeway about 130 feet in length.[1]

P-2232-180

Seawood Properties proposes to expand their existing boat dock facility by constructing and operating an additional boat dock facility with 32 boat slips to serve the Spinnaker Bay Condominiums. The floating dock would extend from the existing dock facility. The dock would extend about 160 feet into the Lake Norman.

P-2232-181

The Regatta Group proposes to construct and operate a new marina to serve the Pointe Regatta Community. The marina would consist of five separate dock facilities with a total of 55 boatslips. The dock facilities would extend from about 100 to 140 feet into the lake.

In addition to the boat slips, the Regatta Group proposes to build a 80-foot-wide, 130-foot-long causeway to connect two portions of the community (one part of the community is located on an island). The causeway would be built by placing about 2,600 cubic yards of fill into shallow wetland waters of Lake Norman. Rip-rap would be used to stabilize 4,680 feet of shoreline at the proposed marina and causeway areas.

In addition, an eight inch diameter sanitary sewer and 6-inch-diameter water lines would be installed at the marina and connected to an existing sewer and water system.

P-2232-196

The Boat Rack, Inc. proposes to expand their existing commercial marina facilities by constructing and operating an additional boat dock facility with 40 boat slips. The floating dock facility would extend about 200 feet into the lake. Ten of the proposed slips would be covered and 30 would be uncovered.

P-2232-203

The Admiral Quarers, Ltd. proposes to construct and operate a new commercial marina. The floating dock facility would consist of 100 boat slips. The dock would be about 370 wide and extend about 220 feet into the lake. A 420-foot-long steel seawall would be installed to stabilize the shoreline.

P-2232-204

M. K. L., Inc. proposes to expand their existing commercial marina, known as Skipper's Marina, by adding a bulkhead and five floating boat dock facilities. The M. K. L., Inc. proposes to construct a bulkhead (about 170-feet-long) to facilitate loading and unloading boats with a forklift. A portion of the bulkhead would extend into the lake where 0.14 acre of the lake would be backfilled and paved to form a ramp area for the forklift operation. Two "L" shaped floating docks would extend from the bulkhead about 80 feet into the lake for temporary docking of boats that have been loaded or unloaded from dry storage. Another floating boat dock facility would extend about 70 feet into the lake consisting of eight boat slips. In addition, two floating boat docks with gas services extending 95 feet into the lake, each accommodating 10 boats, would also be constructed.

A boardwalk, about 320 feet in length, would be constructed along the shoreline to form a walkway connecting the boat dock facilities. About 480 feet of shoreline would be stabilized by rip-rap or bulk heading.

P-2232-205

The Lake Norman Company proposes to construct and operate two new marinas, known as South Harbor and Stone Harbor, to accommodate the residents of the Davidson Landing Community. This proposal would be Phase I of the dock facility development. Each marina would be located at the point of two separate peninsulas that protrude into Lake Norman.

The Stone Harbor Marina would consist of three boat dock facilities extending from about 100 to 175 feet in the lake, consisting of 80 boat slips. In addition, 475-foot-long boardwalk would be constructed along the shoreline to form a walkway connecting the three dock facilities.

The South Harbor Marina would consist of seven boat dock facilities extending from about 100 to 175 feet into the lake consisting of 152 boat slips. In addition, 500-foot-long boardwalk would

[1] The term "dock facility", as used in this notice, is defined as interconnecting walkways extending from the shoreline into the water to smaller u-shaped walkways that form slips for boat dockage (figure 1).

be constructed along the shoreline to form a walkway connecting the seven dock facilities.

Rip-rap would be used to stabilize the shoreline of both peninusulas. The total length of shoreline to be stabilized would be 975 feet.

P–2232–208

The Lake Norman Company proposes to construct and operate Phase II of the proposed Stone Harbor Marina which would accommodate the residents of the Davidson Landing Community. Phase II consists of five floating boat dock facilities extending from about 100 to 140 feet into the lake. The Phase II boat dock facilities would consist of 104 boat slips. This would bring the total number of slips in Phase I and II for Stone Harbor to 184.

A 475-foot-long boardwalk facility would be constructed along the shoreline to connect the five dock facilities of Phase II. In addition, rip-rap would be used to stabilize 475 feet of shoreline.

P–2232–210

The Land's End Development Company proposed to construct and operate a new marina which would accommodate the residents of the 100 Norman Place Community. The proposal consists of three clusters of floating boat dock facilities (with a total of six separate boat dock facilities). Two clusters would be located immediately south of Norman Island Drive and one cluster would be located immediatley north of Lake Norman Drive. The boat dock facilities would extend from 180 to 220 feet into Lake Norman. Collectively, the six boat dock facilities would consist of 90 boats slips.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

2a. Type of Application: Amendment of License to Revise Project Boundary.

b. Project No.: 2579–007.

c. Date Filed: October 11, 1988.

d. Applicant: Indiana & Michigan Electric Company.

e. Name of Project: Twin Branch Project.

f. Location: On the St. Joseph River in St. Joseph and Elkhart Counties, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Robert W. Harmon, American Electric Power Service Corp., 1 Riverside Plaza, Columbus, OH 43215, (614) 223–1638.

i. FERC Contact: Hossein Ildari (202) 376–9060.

j. Comment Date: December 15, 1988.

k. Description of Application: The licensee has learned of certain ambiguities in the ownership of a small tract of land within the project boundary. It has conducted a survey and, in order to include in the project boundary only the lands owned by the licensee and lands necessary for operation of the project, proposes a land exchange with the adjacent land owner, H&S Industries, Inc. (H&S). The exchange would convey to the H&S the licensee's interest in approximately 32 acres of land in exchange for H&S conveying an easement over approximately 55 acres of land to the licensee.

The parcels of lands involved are situated in Cleveland Township, Elkhart County, City of Elkhart, State of Indiana, being a part of the south half of section 1, and north half of section 12, Township 37 North, Range 4 East.

l. This notice also consists of the following standard paragraphs: B and C.

3a. Type of Application: Transfer of License.

b. Project No.: 4354–004.

c. Date Filed: September 16, 1988.

d. Applicants: Gem Irrigation District, Ridgeview Irrigation District, Owyhee Irrigation District, Advancement Irrigation District, Payette-Oregon Slope Irrigation District, Crystal Irrigation District, Bench Irrigation District, and Slide Irrigation District (transferors), and Gem Irrigation District, Ridgeview Irrigation District, and Owyhee Irrigation District (transferees).

e. Name of Project: Owyhee Dam.

f. Location: On the Bureau of Reclamation's Owyhee Dam on the Owyhee River, in Malheur County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Gene Stunz, Secretary, Owyhee Irrigation District, Stunz, Fonda, Pratt, Nichols, Kiyuna & Okai, Box 1565, Nyssa, OR 97913, (503) 372–2268.

i. FERC Contact: William Roy-Harrison, (202) 376–9830.

j. Comment Date: December 21, 1988.

k. Description of Application: The transferors, as listed in paragraph (d) propose to transfer the license issued on May 9, 1984, to the transferees. Each of the transferees is an Oregon irrigation district operating and existing under and pursuant to Chapter 545 of the Oregon Revised Statutes, except for Gem Irrigation District, which is an Idaho irrigation district organized and existing under the provisions of title 43, of the Idaho Code.

l. This notice also consists of the following standard paragraphs: B & C. (except for notice of intent to file competing application and competing application filings, which are not applicable to transfer of license applications).

4a. Type of Filing: Transfer of License.

b. Project No.: 4359–006.

c. Date Filed: September 16, 1988.

d. Applicants: Gem Irrigation District, Ridgeview Irrigation District, Owyhee Irrigation District, Ontario-Nyssa Irrigation District, Advancement Irrigation District, Payette-Oregon Slope Irrigation District, Crystal Irrigation District, Bench Irrigation District, and Slide Irrigation District (transferors), and Gem Irrigation District, Ridgeview Irrigation District, and Owyhee Irrigation District (transferees).

e. Name of Project: Owyhee Tunnel No. 1.

f. Location: On the Bureau of Reclamation's Owyhee Dam on the Owyhee River, in Malheur County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Gene Stunz, Secretary, Owyhee Irrigation District, Stunz, Fonda, Pratt, Nichols, Kiyuna & Okai, Box 1565, Nyssa, OR 97913, (503) 372–2268.

i. FERC Contact: William Roy-Harrison, (202)(376–9830.

j. Comment Date: December 21, 1988.

k. Description of Application: The transferors, as listed in paragraph (d) propose to transfer the license issued on April 27, 1987, to the transferees. Each of the transferees is an Oregon irrigation district operating and existing under and pursuant to Chapter 545 of the Oregon Revised Statutes, except for Gem Irrigation District, which is an Idaho irrigation district organized and existing under the provisions of title 43, of the Idaho Code.

l. This notice also consists of the following standard paragraphs: B & C (except for notice of intent to file competing application and competing application filings, which are not applicable to transfer of license applications).

5a. Type of Filing: Transfer of License.

b. Project No.: 5357–005.

c. Date Filed: September 16, 1988.

d. Applicants: Owyhee Irrigation District, Ontario-Nyssa Irrigation District, Advancement Irrigation District, Payette-Oregon Slope Irrigation District, Crystal Irrigation District, Bench Irrigation District, Slide Irrigation District (transferors), and Owyhee Irrigation District (transferee).

e. Name of Project: Mitchell Butte Power Project.

f. Location: On the Bureau of Reclamation's Mitchell Butte Lateral, an

irrigation canal near the town of Adrian, in Malheur County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Gene Stunz, Secretary, Owyhee Irrigation District, Stunz, Fonda, Pratt, Nichols, Kiyuna & Oaki, Box 1565, Nyssa, OR 97913, (503) 372–2268.

i. FERC Contact: Thomas Dean, (202) 376–9562.

j. Comment Date: December 22, 1988.

k. Description of Application: The transferors, as listed in paragraph (d) proposes to transfer its license issued on December 14, 1984, and amended on June 30, 1988, to the Owyhee Irrigation District (transferee). The transferee is an Oregon irrigation district operating and existing under and pursuant to Chapter 545 of the Oregon Revised Statutes.

l. This notice also consists of the following standard paragraphs: B, and C.

6a. Type of Application: Surrender of License.

b. Project No.: 7484–002.

c. Date Filed: May 3, 1988.

d. Applicant: Willow River Hydro Associates.

e. Name of Project: Little Falls Hydro Project.

f. Location: On the Willow River in St. Croix County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. David M. Coombe, 410 Severn Ave., Suite 313, Annapolis, MD 21403, (301) 268–8820.

i. FERC Contact: Ed Lee on (202) 376–5786.

j. Comment Date: December 19, 1988.

k. Description of Application: The license for this project was issued on February 26, 1985, for an installed capacity of 270 kW. The licensee states that it has determined that the project would be economically infeasible. No construction has commenced at the project site.

l. This notice also consists of the following standard paragraphs: B and C.

7a. Type of Application: Major License.

b. Project No.: 9170–003.

c. Date Filed: March 3, 1988.

d. Applicant: Great Western Power & Light, Inc.

e. Name of Project: G.W.P. #13 & Associates Hydroelectric.

f. Location: At the Bureau of Reclamation's Boise Diversion Dam on the Boise River, in Ada County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Michael J. and Kristine M. Graham, P.O. Box N, Manti, Utah 84642, (202) 376–1943.

i. FERC Contact: Mr. James Hunter, (202) 376–1943.

j. Comment Date: December 27, 1988.

k. Description of Application: The proposed project would consist of: (1) A 20-foot-long by 14-foot-wide reinforced concrete, gated intake structure; (2) three 450-foot-long, 60-inch-diameter penstocks; (3) a 50-foot-long by 26-foot-wide powerhouse containing three identical generating units with a total rated capacity of 2250 kW and an average annual output of 14.6 GWH; (4) a tailrace returning flows to the Boise River at a normal water surface elevation of 2,773 feet; and (5) a 2,000-foot-long transmission line connecting to an existing Idaho Power Company line. The estimated cost of the project is $2,269,960.

l. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

8 a. Type of Filing: Transfer of License.

b. Project No.: 10198–003.

c. Date Filed: September 23, 1988.

d. Applicants: Pelican Utility Company and Inlet Utility Company.

e. Name of Project: Pelican Hydroelectric Water Power Project.

f. Location: On Pelican Creek within the Tongass National Forest in the borough of Sitka, on Chichagof Island, Alaska.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. Applicant Contact: Paul F. Norris, Esq., Davis Wright & Jones, 2600 Century Square, 1501 Fourth Avenue, Seattle, Washington 98101 (206) 622–3150.

i. FERC Contact: Thomas Dean, (202) 376–9562.

j. Comment Date: December 8, 1988.

k. Description of Application: Pelican Utility Company (transferor) proposes to transfer its license issued on May 27, 1988, to Inlet Utility Company (transferee). The transferee is a corporation organized under the laws of the State of Alaska, and domesticated in the State of Alaska, with its head office in Seattle, Washington.

l. This notice also consists of the following standard paragraphs: B & C (except for notice of intent to file competing application and competing application filings, which are not applicable to transfer of license applications).

9 a. Type Application: License (under 5 MW).

b. Project No.: 10493–000.

c. Date Filed: October 13, 1987.

d. Applicant: Whitmore Hydroelectric Company.

e. Name of Project: Whitmore Upper & Lower Hydro Project.

f. Location: On Little Cottonwood Creek in T3S, R2E, Sec. 7, 8, 9, SLM, partially within the Wasatch-Cache National Forest near Sandy in Salt Lake County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. Applicant Contact: Mr. Michael J. Graham, P.O. Box 1929, Lake Havasu, AZ 86403, (602) 855–1615.

i. FERC Contact: Ms. Julie Bernt, (202) 376–1936.

j. Comment Date: December 15, 1988.

k. Competing Application:
Project No. 10113–000
Date Filed: October 2, 1986

l. Description of Project: The proposed project would consist of: (1) An existing, concrete, upper diversion at elevation 6,245 feet MSL; (2) an existing 24-inch-diameter, 2,500-foot-long upper penstock; (3) an existing upper powerhouse at 6,045 feet MSL containing one new generating unit with a rated capacity of 500 kW; (4) an existing tailrace connected to the lower diversion; (5) an existing, concrete, lower diversion at elevation 6,040 feet MSL; (6) a 24-inch-diameter, 5,000-foot-long lower penstock; (7) an existing lower powerhouse at elevation 5,630 feet MSL containing two new generating units, one with a rated capacity of 750 kW and one with a rated capacity of 500 kW; (8) an existing 10,000-foot-long transmisson line which will be upgraded; and (9) appurtenant facilities. The average annual energy production is estimated to be 8,405 MWh and the estimated cost of the project is $1,374,450.

m. Purpose of Project: The power produced would be sold to a local power company.

n. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A9. Notice of intent—A notice of intent must specifiy the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this pubic notice.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203-RB, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub.L. No. 88-29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: November 14, 1988.
Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26571 Filed 11-16-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-125-000 et al.]

Interstate Power Company et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Interstate Power Company

[Docket No. CP89-125-000]

November 9, 1988.

Take notice that on October 24, 1988, Interstate Power Company (IPW), 1000 Main Street, Dubuque, Iowa 52001, filed a request for a waiver of the requirements to file its Annual Report of Natural Gas Companies (Form No. 2 and Form No. 2A), as well as a waiver for the Annual Report of Gas Supply for Certain Natural Gas Companies (Form No. 15), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

IPW states that it owns and operates an interstate pipeline which extends from Hooppole, Illinois, across the Iowa border to Clinton, Iowa. IPW also owns a pipeline which extends from Jackson County, Iowa, across the Illinois border to Savanna, Illinois. All gas transported by these two pipelines is for the benefit of residential, commercial and industrial consumption according to IPW.

It is for these reasons the IPW believes it qualifies as a local distributor of natural gas and therefor requests waiver of the filing requirements.

Comment date: November 30, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company

[Docket No. CP89-120-000]

November 9, 1988.

Take notice that on November 2, 1988, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 776252, filed in Docket No. CP89-120-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for The Polaris Pipeline Corporation (Polaris), a marketer, under the certificate issued in Docket No. CP87-115-000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request tht is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated September 22, 1988, it proposes to transport up to 50,000 dekatherms (dt) per day equivalent of natural gas on an interruptible basis for Polaris from a point of receipt listed in Exhibit "A" of the agreement to delivery points also listed in Exhibit "A", which transportation service may involve interconnections between Tennessee and various transporters Tennessee states that it would receive the gas at an existing point on its system in West Monroe, Ouachita Parish, Louisiana, and that it would transport and redeliver the gas in multiple states at various delivery points.

Tennessee advises that service under Section 284.223(a) commenced September 23, 1988, as reported in Docket No. ST89–231 (filed October 18, 1988). Tennessee further advises that it would transport 50,000 dt on an average day and 18,250,000 dt annually.

Comment date: December 27, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Natural Gas Pipeline Company

[Docket No. CP89–117–000]

November 9, 1988.

Take notice that on November 1, 1988, Northern Natural Gas Company, Division of Enron Corporation (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–117–000 a request pursuant to §§ 157.205 and 284.223(2)(b) of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of Tejas Power Corporation, a marketer of natural gas, under Northern's blanket certificate issued in Docket No. CP86–435–000 under 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 the public inspection.

Northern states that it would transport, on an interruptible basis, up to a maximum of 20,000 MMBtu of natural gas per day for Tejas. The receipt and delivery points are listed in Appendix A of the Septermber 1, 1988, transportation agreement which provides for this service, and on file with the Commission and open to public inspection. Northern indicates that the total volumes of gas to be transported for Tejas on a peak day would be 20,000 MMBtu; on an avrage day would be 15,000 MMBtu and on an annual basis would be 7,300,000 MMBtu. Northern indicates that it would perform the proposed transportation service for Tejas pursuant to a service agreement dated Septermber 1, 1988 between Northern and Tejas.

Northern states that it commenced the transportation of natural gas for Tejas at Docket No. ST88–5864 for a 120-day period, pursuant to § 284.223(a)(1) of the Commission's Regulations. This service commenced on September 1, 1988 with the 120-day period ending December 29, 1988. Northern states that no new facilities are proposed in order to provide this transportation service.

Northern also states that it is not aware of any agency relationship under which a local distribution company or an affiliate of Tejas is to receive natural gas on behalf of Tejas, and that it has no other applications and is not aware of any others that are related to this transaction.

Comment date: December 27, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. El Paso Natural Gas Company

[Docket No. CP89–113–000]

November 9, 1988.

Take notice that on November 1, 1988, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed a request for authorization in Docket No. CP89–113–000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install a sales tap to permit the delivery of natural gas to Southern Union Gas Company (SUG) for resale to the Headwaters Ranch in Yavapai County, Arizona, under El Paso's blanket authorization issued in Docket No. CP82–435–000, which is on file with the Commission and open to the public inspection.

El Paso proposes to install a 1-inch O.D. tap and valve assembly, with appurtenances, at a point on El Paso's 6⅝-inch O.D. Prescott Line in Yavapai County, Arizona at a cost of $5,000. El Paso indicates that SUG has advised that the requested volumes would be used to serve irrigation and residential natural gas requirements of the Headwaters Ranch. El Paso states that the peak day and annual volumes using the new tap would be 46 Mcf and 4,740 Mcf, respectively. El Paso states that SUG has advised it would install other minor related facilities as needed, for ultimate distribution of the requested volumes. El Paso indicates that the volumes delivered at the proposed sales tap are within the certificated entitlements of SUG.

El Paso states that SUG would pay for each dekatherm sold at the Headwaters Ranch Sales Tap delivery point the ABD–L–AZ rate reflected from time to time on Sheet No. 100 of El Paso's Volume No. 1 Tariff. El Paso indicates that the proposed sale of natural gas to SUG at the proposed tap would have a negligible effect upon El Paso's peak day and annual deliveries.

Comment date: December 27, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Transcontinental Gas Pipe Line Corporation

[Docket No. CP89–126–000]

November 10, 1988.

Take notice that on November 3, 1988, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP89–126–000 a request for authorization to transport gas for Shell Gas Trading Company (Shipper) under the prior notice procedure prescribed in §§ 157.205 and 284.223 of the Commission's Regulations and Transco's blanket certificate issued in CP88–328–000, all as more fully set forth in the request which is on file with the Commission and available for public inspection.

Transco states that the total volume of gas to be transported for Shipper on a peak day would be 200,000 dt; on an average day would be 100,000 dt; and on an annual basis would be 5,475,000 dt.

Transco states it would receive the gas at South Timbalier Block 300/301, offshore Louisiana and deliver the gas at St. Helena Parish, Louisiana.

Transco states that it would construct no new facilities in order to provide this transportation service. Transco would utilize existing facilities as reflected in Exhibit A of the transportation agreement.

Transco Gas Gathering Company (TGGC) would be required to construct a meter station and appurtenant facilities in Ship Shoal Block 261(259), offshore Louisiana at a projected cost of approximately $2,450,000 to interconnect with TGGC's pipeline in Ship Shoal Block 261, offshore Louisiana.

Transco states that service for Shipper commenced September 1, 1988 pursuant to the 120-day automatic authorization as reflected in Docket No. ST89–23.

Comment date: December 27, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. Arkla Energy Resources, a Division of Arkla, Inc., Mississippi River Transmission Corporation

[Docket No. CP89–101–000]

November 10, 1988.

Take notice that on October 28, 1988, Arkla Energy Resources (AER), a division of Arkla, Inc., P.O. Box 21734, Shreveport, Louisiana 71151, and Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis Missouri 63124, jointly filed in Docket No. CP89–101–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, for authorization to continue through March 31, 1989, on a fee-free basis and with pre-granted abandonment an exchange of up to 30,000 Mcf per day through previously certificated facilities in order to avoid the suspension of natural gas service to approximately 9,700 residential, commercial and industrial customers in the City of Pine Bluff, and environs, Jefferson County, Arkansas, all as more fully set forth in the application, which

is on file with the Commission and open to public inspection.

AER and MRT state that under the arrangement MRT would deliver the gas to AER at an existing 8-inch tap where MRT's main transmission line intersects with AER's Line AM–145. It is indicated that AER would then redeliver equivalent volumes to MRT at three existing points of delivery located in Caddo Parish, Louisiana, and in Jackson and Jefferson Counties, Arkansas.

AER and MRT state that they have been conducting the existing exchange pursuant to the Commission's emergency regulations (Subpart I of Part 284) in order to avoid suspension of service from AER's Line AM–145 while AER repairs a section of that line. It is indicated that unexpected right-of-way problems have caused significant delays and AER estimates that an additional two to three months would be required to complete the necessary repairs of Line AM–145. It is also indicated that authorization under the Commission's emergency transactions would terminate on November 5, 1988.

Comment date: December 1, 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 no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 88–26563 Filed 11–16–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT89–3–000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

November 10, 1988.

Take notice that on November 7, 1988, Columbia Gas Transmission Corporation tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1:

Third Revised Sheet No. 22
Third Revised Sheet No. 22A
Third Revised Sheet No. 22B
Fourth Revised Sheet No. 22C
Fourth Revised Sheet No. 22D
Fourth Revised Sheet No. 22E
Second Revised Sheet No. 22E1
Third Revised Sheet No. 22E2
Third Revised Sheet No. 22E3
Fourth Revised Sheet No. 22F
Third Revised Sheet No. 22G
Third Revised Sheet No. 22H
Fourth Revised Sheet No. 22I
Third Revised Sheet No. 22J
Third Revised Sheet No. 22K
Third Revised Sheet No. 22L
Third Revised Sheet No. 22M
Third Revised Sheet No. 22N
Fifth Revised Sheet No. 22O
Fourth Revised Sheet No. 22P
Second Revised Sheet No. 22P1
Second Revised Sheet No. 22P2
Third Revised Sheet No. 22P3
Fifth Revised Sheet No. 22Q
Third Revised Sheet No. 22R
Third Revised Sheet No. 22S
Fourth Revised Sheet No. 22T
Third Revised Sheet No. 22U
Third Revised Sheet No. 22V
Second Revised Sheet No. 22W
Original Sheet No. 72R
Original Sheet No. 72R1
Original Sheet No. 72R2
Original Sheet No. 72R3
Original Sheet No. 72R4
Original Sheet No. 72R5

Any person desiring to be heard or to protest the subject 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 18 CFR 385.214 and 385.211. All such motions or protests must be filed by November 17, 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. 88–26564 Filed 11–16–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT89–4–000]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

November 10, 1988.

Take notice that on November 7, 1988, Columbia Gulf Transmission Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1:

Third Revised Sheet No. 157
Original Sheet No. 157A
Fourth Revised Sheet No. 163
Third Revised Sheet No. 164
Third Revised Sheet No. 167
Third Revised Sheet No. 169
Original Sheet No. 169A
Third Revised Sheet No. 196
Original Sheet No. 196A
Third Revised Sheet No. 203
Third Revised Sheet No. 204
Third Revised Sheet No. 207

Third Revised Sheet No. 209
Original Sheet No. 209A
Third Revised Sheet No. 233
Original Sheet No. 233A
Fourth Revised Sheet No. 239
Third Revised Sheet No. 240
Third Revised Sheet No. 243
Original Sheet No. 243A
Third Revised Sheet No. 245
Original Sheet No. 245A
Third Revised Sheet No. 281
Original Sheet No. 281A
Fourth Revised Sheet No. 287
Third Revised Sheet No. 288
Third Revised Sheet No. 291
Third Revised Sheet No. 293
Original Sheet No. 293A
Original Sheet Nos. 329 Through 224

Any person desiring to be heard or to protest the subject 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 18 CFR 385.214 and 385.211. All such motions or protests must be filed by November 17, 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. 88-26565 Filed 11-16-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-17-000]

Northwest Pipeline Corp.; Petition To Suspend "Sunset Date" and Request for Expedited Action

November 10, 1988.

Take notice that on October 31, 1988, Northwest Pipeline Corporation ("Northwest") filed a petition requesting expedited Commission action to suspend for Northwest the "sunset date" of December 31, 1988 for recovery of Northwest's eligible contract reformation costs under Order No. 500 which are in litigation, and to clarify that Northwest may be permitted to project and include in its contract reformation cost recovery proposal known and measurable contract reformation costs to be paid or incurred through September 30, 1989.

A copy of this filing has been mailed to Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or 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 §§ 385.2314 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 21, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26567 Filed 11-16-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP84-42-000 et al.]

United Gas Pipeline Co.; Informal Settlement Conference

November 9, 1988.

In the Matter of United Gas Pipeline Company, Docket Nos. RP84-42-000, RP85-209-009, RP86-93-005, RP86-158-006, RP87-34-003, RP88-8-005, RP88-27-000, RP88-92-000, RP88-263-000, RP88-264-000, RP88-265-000, CP86-256-002, CP87-17-000, CP87-125-000, CP87-524-000, CP88-6-001, CP88-124-000, CP88-329-000, CP88-440-000, CP478-000, IN86-5-001, and TC88-6-000.

Take notice that an informal settlement conference will be convened in the above proceedings on November 16, 1988, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above referenced dockets. Further informal conferences may be convened November 17, 1988, through November 23, 1988, as needed.

Any party, as defined by 18 CFR 385.102(c) (1988), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations. 18 CFR 385.214 (1988).

For additional information, contact Andrew P. Mosier, Jr. (202) 357-8410 or David Cain (202) 357-8418.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26572 Filed 11-16-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-258-001]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 10, 1988.

Take notice that on November 3, 1988, Southern Natural Gas Company (Southern) tendered for filing the following tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective October 1, 1988:

Substitute First Revised Sheet No. 30L
First Revised Sheet No. 30L.1
First Revised Sheet No. 45R.8b
Third Revised Sheet No. 45R.9

Southern states that on Oct. 19, 1988, the Commission issued its Order Accepting For Filing Tariff Sheets Subject to Conditions, Rejecting Other Tariff Sheets and Granting Waiver (Order) in which the Commission addressed a filing tendered by Southern in this docket on September 19, 1988, to simplify administrative procedures and give shippers additional flexibility in transporting on Southern's system. The Order accepted Southern's filing subject to Southern filing certain revised tariff sheets in accordance with the discussion therein within 15 days of such Order. Accordingly, Southern has submitted the revised tariff sheets listed above and has requested a waiver of the Commission's Regulations to make the revised sheets effective October 1, 1988, as indicated above.

Southern states that copies of the filing were mailed to all of Southern's jurisdictional purchasers, shippers, and interested state commissions, as well as the parties listed on the Commission's official service list compiled in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 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 21, 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. 88-26566 Filed 11-16-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER89-26-000 et al.]

Long Island Lighting 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. Long Island Lighting Company

[Docket Nos. ER89-26-000]

November 9, 1988.

Take notice that on October 25, 1988, Long Island Lighting Company (LILCO) tendered for filing proposed changes in its FERC Rate Schedule 32, pursuant to which LILCO transmits power and energy from the New York Power Authority to the three municipal electricity utilities on Long Island: The Villages of Greenport, Rockville Centre and Freeport. The proposed changes would decrease revenues from such service by $10,196.00 based on the 12-month period ending May 31, 1988.

LILCO proposes to change the rates in order to reflect the Tax Reform Act of 1986. The rate also reflects changes in the Company's cost of service.

Copies of this filing were served upon the New York Power Authority, the Municipal Electric Utilities Association of New York State, the Incorporated Villages of Greenport, Freeport and Rockville Centre, and the New York State Public Service Commission.

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

November 9, 1988.

2. Long Island Lighting Company

[Docket No. ER89-24-000]

November 9, 1988.

Take notice that on October 25, 1988, Long Island Lighting Company (LILCO) tendered for filing proposed changes in its FERC Rate Schedule 34, pursuant to which LILCO transmits power and energy from the New York Power Authority to Brookhaven National Laboratory and Grumman Corporation on Long Island. The proposed changes would decrease revenues from such service by $21,408.00 based on the 12-month period ending May 31, 1988.

LILCO proposes to change the rates in order to reflect the Tax Reform Act of 1986. The rate also reflects changes in the Company's cost of service.

Copies of this filing were served upon the New York Power Authority, Grumman Corporation in Bethpage, New York, Brookhaven National Laboratory in Upton, New York, and the New York State Public Service Commission.

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Green Mountain Power Corporation

[Docket No. ER89-53-000]

November 9, 1988.

Take notice that on November 4, 1988, Green Mountain Power Corporation (GMP) tendered for filing a rate schedule in accordance with Part 35 of the Commission's Regulations:

Agreement for the Purchase of Power between Green Mountain Power Corporation (GMP) and Fitchburg Gas and Electric Light Company (FG&E) for the period November 1, 1988, through October 31, 1991.

GMP requests that the Commission waive the notice requirements set forth in § 35.3 of its Regulations in order to permit the rate schedule to become effective November 1, 1988.

Copies of this filing have been served on FG&E, the Vermont Public Service Board, and the Vermont Department of Public Service

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Kentucky Utilities Company

[Docket No. ER89-51-000]

November 9, 1988.

Take notice that on November 2, 1988, Kentucky Utilities Company (KU) tendered for filing "Rescission and Termination of Agreement" of December 14, 1971 among Big Rivers Rural Electric Cooperative Corporation (now Big Rivers Electric Corporation) (BR) East Kentucky Rural Electric Cooperative Corporation (now East Kentucky Power Cooperative, Inc.) (EK) and Kentucky Utilities Company (KU). The instrument is dated August 31, 1988. Waiver of prior notice was requested to permit an effective date of August 31, 1988.

Copies of the filing was served on BR, EK, and the Public Service Commission of Kentucky.

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company

[Docket No. ER89-52-000]

November 10, 1988.

Take notice that on November 3, 1988, Southern California Edison Company (Edison) tendered for filing a twenty Year Sale and Exchange Agreement (Agreement) between Edison and Bonneville Power Administration (BPA). Service under the Agreement commences July 1, 1989 and continues, unless terminated in accordance with the Agreement's terms, until May 31, 2009.

The Agreement generally operates as a power sale by BPA to Edison. However, under specified conditions, the transaction converts to a seasonal capacity-energy exchange. Under the exchange Edison returns associated energy to BPA on a daily basis and provides Exchange Energy during the winter in amounts determined by negotiated ratios set forth in the Agreement. The Agreement also provides BPA with the right to purchase specified amounts of Supplemental Energy from Edison during periods when the Agreement operates as an exchange, at 115 percent of Edison's incremental costs. In addition, the Agreement provides BPA with the right, subject to termination by Edison on five years' notice, to purchase up to 624,000 MWh of Option Energy each winter at 115 percent of Edison's incremental costs.

A copy of this filing has been served upon Bonneville Power Administration and the California Public Utilities Commission.

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Niagara Mohawk Power Corporation

[Docket No. ER89-50-000]

November 10, 1988.

Take notice that on November 3, 1988, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing an Agreement between Niagara Mohawk and Niagara County (Public Body) dated September 1, 1988. Niagara Mohawk proposes an effective date of October 28, 1988 for the Agreement.

This Agreement provides for Niagara Mohawk to allow the use of such portions of its electric system and facilities as are required for the delivery of Preference Power to Eligible Customers of the Public Body. The Public Body's agent purchases the Preference Power from the Power Authority of the State of New York.

Niagara Mohawk further states that the proposed rate is the rate per kWhr charged under Niagara Mohawk's applicable, residential rate tariff, minus the cost of fuel included in the retail rates, plus additional A&G expenses incurred by Niagara Mohawk as a result of the services provided the Agency under the Agreement. Niagara Mohawk states that the rate was arrived at through arms-length negotiations between the parties, and that the proposed rate is intended to produce a return to Niagara Mohawk essentially equivalent to which Niagara Mohawk would have received had it supplied at its residential retail rates the amount of power delivered as Preference Power. Niagara Mohawk seeks waiver of the notice requirements, stating that its metering and billing cycle starts on

October 28 and that service to other Public Bodies will commence that day.

Copies of this filing were served upon the Public Service Commission of the State of New York and Niagara County Attorney.

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this document.

7. Washington Water Power Company

[Docket No. ER89-25-000]

November 10, 1988.

Take notice that on October 25, 1988, Washington Water Power Company (WWP) tendered for filing a revision to a Transmission Wheeling Tariff, Schedule 62. This tariff is related to transmission wheeling service for borderline customer loads provided only to the Bonneville Power Administration and the United States Bureau of Reclamation (U.S.B.R.) under a currently existing General Transfer Agreement. Revision #2 to Schedule 62 revises the methodology used to calculate charges for borderline transmission wheeling service to U.S.B.R. loads. The U.S.B.R. provides power to the Spokane Indian Tribe at Little Falls, Washington and to the East Greenacres Irrigation District near Post Falls, Idaho.

Washington states that the proposed revision is submitted for the purpose of compensating Washington for U.S.B.R. settlement costs and revising wheeling charges for U.S.B.R. loads at Little Falls, Washington. The revision to Schedule 62 would decrease yearly revenues from transmission wheeling service provided to the U.S.B.R. by $35,631/year based on the 12-month period ending December 31, 1989.

Washington requests that the requirements of prior notice be waived and that the effective date be made July 8, 1988, which is the effective date of the revised contract.

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service

[Docket No. ER89-15-000]

November 10, 1988.

Take notice that on October 19, 1988, Northeast Utilities Service Company (NUSCO), as Agent for the Connecticut Light and Power (CL&P) and Western Massachusetts Electric Company (WMECO) tendered for filing pursuant to Part 35 of the Commission's Regulations, a Notice of Termination of the following rate schedule:

Transmission Service Agreement between CL&P and WMECO, and Vermont Public Power Supply Authority (VPPSA), dated June 1, 1986 (CL&P Rate Schedule FERC 383 and WMECO Rate Schedule FERC 300).

The rate schedule is to be terminated because it is no longer being utilized by the parties to the Agreement. On behalf of CL&P and WMECO, NUSCO requests that the Commission allow the termination to take effect on May 1, 1988, the date on which the Agreement terminated in accordance with its own terms pursuant to Section 1, "Effective Date and Term," of the Agreement.

Copies of this filing have been served upon the Vermont Public Power Supply Authority, CL&P, WMECO c/o NUSCO.

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Electric Power Company

[Docket No. ER89-54-000]

November 10, 1988.

Take notice that on November 4, 1988, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an executed electric service agreement between itself and Badger Power Marketing Authority of Wisconsin (BPMA). According to Wisconsin Electric, the agreement is in partial fulfillment of a letter of intent between the parties that provides for both parties to construct transmission facilities which will allow BPMA to receive service at 138 kV. Currently, Wisconsin Electric provides total requirements service to BPMA's member municipals, Shawano and Clintonville, at its standard voltage under executed electric service agreements.

Wisconsin Electric requests that the Commission waive the sixty-day notice requirements of its Regulations in order to allow a proposed effective date coincident with the energization of the Shawano East Substation. Wisconsin Electric states that BPMA joins in the requested effective date. The Company advises that it will promptly notify the Commission of this event, which is expected in May or June, 1989.

Copies of the filing have been served on BPMA and the Public Service Commission of Wisconsin.

Comment date: November 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 26562 Filed 11-16-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-3477-8]

Air Pollution Control; Motor Vehicle Emission Factors; Public Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop which the Environmental Protection Agency (EPA) will conduct regarding the Agency's motor vehicle emission factors. These emission factors are used by the States in the development of emissions inventories and the revision of State Implementation Plans, and by other parties having an interest in modeling the air quality impact of motor vehicle emissions. The purposes of this workshop are (1) to present technical aspects of EPA's efforts in terms of review of the data sources, analytical techniques employed, and the resulting emission factors, and (2) to provide a final opportunity for interested parties to participate in an informal review of these analyses and their results.

DATE: The workshop is scheduled for Wednesday, November 30, 1988, from 9:00 a.m. to 4:00 p.m. (EST).

ADDRESS: The workshop will be held in the conference room of the U. S. EPA Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan.

FOR FURTHER INFORMATION CONTACT: Terry P. Newell, Test and Evaluation Branch, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105 (Phone: 313/668-4462 or FTS 374-8462).

SUPPLEMENTARY INFORMATION: EPA's current emission factor model, MOBILE3, was released in mid-1984. This model uses the results of in-use vehicle emission tests to estimate fleet

emission factors for three gaseous pollutants (hydrocarbons (HC), carbon monoxide, and oxides of nitrogen), taking into account the influence on emissions of such variables as vehicle speed and ambient temperature, among others. The emission factors projected using MOBILE3, for a number of different years under a variety of assumptions, have been published in the report "Complilation of Air Pollutant Emission Factors, Volume II: Mobile Sources" (4th Edition).

Since the release of MOBILE3, much additional emission data from in-use vehicle testing have been collected and analyzed, particularly from later model year, newer technology vehicles. In addition, EPA has conducted testing aimed at characterizing "running loss" emissions, which are those evaporative HC emissions originating from vehicles while they are being driven (as versus diurnal or hot soak emissions). EPA has been working on incorporating this new information into an updated emission factor model, MOBILE4. This model will be used by States and localities in developing new emissions inventories and State Implementation Plan (SIP) revisions required by the post-1987 attainment strategy, as well as by EPA in evaluating potential regulatory strategies and by others interested in modeling the air quality impact of motor vehicle emissions.

EPA has previously held two workshops on the subject of MOBILE4, in April and November of 1987. At those workshops, EPA presented various proposals for the incorporation of new data and analyses into MOBILE4. Comments received by EPA following these workshops have also been taken into consideration in the further development of the updated emission factors. The November 30 workshop will provide additional information on the final emission factor analyses to be used in MOBILE4.

Specific topics that will be addressed at the November 30 workshop include:

—1981 and later model year basic emission rates
—Tampering rates
—Anti-tampering program emission credits
—Inspection and maintenance program emission credits
—Updated temperature correction factors
—Running losses
—The effect of temperatures on the projection of HC emission factors
—Revisions to hot soak and diurnal emissions estimates

Information on topics for which there is insufficient time to make formal presentations will be made available in the form of handouts to be distributed at the workshop.

Due to the highly technical nature of the agenda, participants should be familiar with the existing emission factors and MOBILE3 in order to benefit from the discussions. The November 30 workshop is not a "user workshop," and so will not address the mechanics of implementing the running MOBILE4. Workshops intended to address user questions and provide user guidance are currently planned for sometime after the release of MOBILE4 (currently slated for early 1989). Also this workshop will not include discussions of programming aspects of MOBILE4, such as its interface with other programs used in creating emissions inventories and air quality plans or its language and equipment requirements.

This workshop is intended to be a forum for the exchange of information and has no direct connection to any rulemaking actions. Consequently, the workshop will be very informal. There will not be opportunities for prepared statements by attendeees, although comment will be welcomed on specific topics as they are brought up for discussion. Although no public docket will be kept, written submissions are welcome at any time and may be brought to the workshop or mailed to Terry Newell, at the address shown above.

Date: November 10, 1988.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 88-26590 Filed 11-16-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of September 20, 1988

In accordance with § 271.5 of its Rules Regarding Availabiliy of Information (12 CFR 271, *et seg.*), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on September 20, 1988.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that the expansion in economic activity may be moderating from the vigorous pace earlier in the year. Total nonfarm payroll employment grew more slowly in July and August, though the increases in the two months were still sizable. The civilian unemployment rate rose to 5.6 percent in August. Industrial production advanced slightly further in August after a sharp increase in July. Retail sales were flat in July and August. Recent indicators of business capital spending suggest some moderation from the especially rapid growth in earlier months of the year. Preliminary data for the nominal U.S. merchandise trade deficit in July showed some further reduction from the improved second-quarter rate. The latest information on prices suggests little if any change from recent trends.

Most interest rates have declined somewhat since the Committee meeting on August 16. Over the intermeeting period, the trade-weighted foreign exchange value of the dollar in terms of the other G–10 currencies was about unchanged on balance.

Expansion of M2 and M3 moderated further in August. For the year through August, M2 has grown at a rate slightly above, and M3 at a rate more noticeably above, the midpoints of the ranges established by the Committee for 1988. M1 was unchanged in August after registering relatively strong growth in June and July. Expansion of total domestic nonfinancial debt for the year thus far appears to be at a pace somewhat below that in 1987.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability over time, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at its meeting in late June reaffirmed the ranges it had established in February for growth of 4 to 8 percent for both M2 and M3, measured from the fourth quarter of 1987 to the fourth quarter of 1988. The monitoring range for growth of total domestic nonfinancial debt was also maintained at 7 to 11 percent for the year.

For 1989, the Committee agreed on tentative ranges for monetary growth, measured from the fourth quarter of 1988 to the fourth quarter of 1989, of 3 to 7 percent for M2 and 3½ to 7½ percent for M3. The Committee set the associated monitoring range for growth of total domestic nonfinancial debt at 6½ to 10½ percent. It was understood that all these ranges were provisional and that they would be reviewed in early 1989 in the light of intervening developments.

With respect to M1, the Committee reaffirmed its decisions in February not to establish a specific target for 1988 and also decided not to set a tentative range for 1989. The behavior of this aggregate will continue to be evaluated in the light of movements in its velocity, developments in the economy and financial markets, and the nature of emerging price pressures.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. Taking account of indications of inflationary pressures, the strength of the business expansion, the

[1] Copies of the record of policy actions of the Committee for the meeting of September 20, 1988, are available upon requet to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

behavior of the monetary aggregates, and developments in foreign exchange and domestic financial markets, somewhat greater reserve restraint would, or slightly lesser reserve restraint might, be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of M2 and M3 over the period from August through December at annual rates of about 3 and 5 percent, respectively. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, November 9, 1988.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 88-26543 Filed 11-16-88; 8:45 am]

BILLING CODE 6210-01-M

Evans Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 5, 1988.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Evans Bancorp, Inc.*, Angola, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The Evans National Bank of Angola, Angola, New York.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *B/W Bancshares, Inc.*, Erlanger, Kentucky; to acquire 100 percent of the voting shares of First National Bank and Trust Company, Georgetown, Kentucky.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Abess Properties, Ltd.*, Miami, Florida; to become a bank holding company by acquiring 97.81 percent of the voting shares of City National Bancshares, Inc., Miami, Florida, and thereby indirectly acquire 100 percent of the voting shares of City National Bank Corporation, Miami, Florida, and 99.76 percent of the voting shares of City National Bank of Florida, formerly City National Bank of Miami, Miami, Florida.

2. *Ready Bancorp*, Hialeah, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Ready State Bank, Hialeah, Florida.

D. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First National Bancorp, Inc.*, Joliet, Illinois; to acquire 100 percent of the voting shares of Southwest Suburban Bank, Bolingbrook, Illinois.

E. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Bankers Trustshares, Inc.*, Quincy, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First Midwest Bank/M.C., National Association, Quincy, Illinois.

2. *Peoples Investment Corporation*, Cuba, Missouri; to acquire 100 percent of the voting shares of Peoples Bank of Steelville, Steelville, Missouri, a *de novo* bank.

F. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *American Community Bank Group, Inc.*, Minnetonka, Minnesota; to become a bank holding company by acquiring 96.26 percent of the voting shares of American State Bank of Bloomington, Bloomington, Minnesota.

2. *American Community Bank Group, Inc.*, Minnetonka, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of National City Bank of Ridgedale, Minnetonka, Minnesota.

3. *Cleveland Bancshares, Inc.*, Cleveland, Minnesota; to become a bank holding company by acquiring 82.63 percent of the voting shares of Peoples State Bank of Cleveland, Cleveland, Minnesota, a *de novo* bank.

4. *Lakeside Bank Holding Company*, New Town, North Dakota; to merge with McKenzie County Bancorp, Inc., Watford City, North Dakota, and thereby indirectly acquire 96.38 percent of the voting shares of McKenzie County National Bank, Watford City, North Dakota.

G. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *W.T.B. Financial Corporation*, Spokane, Washington; to acquire an additional 10 percent of the voting shares of Norban Financial Group, Inc., Coeur d'Alene, Idaho, thereby owning 31.4 percent of the voting shares, and thereby indirectly acquiring Northern State Bank, Coeur d'Alene, Idaho, and Seaport Citizens Bank, Lewiston, Idaho.

Board of Governors of the Federal Reserve System, November 10, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-26545 Filed 11-16-88; 8:45 am]

BILLING CODE 6210-01-M

Farmers National Bank Corp. of Cynthiana, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under §225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition,

conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 5, 1988.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Farmers National Bank Corp of Cynthiana, Inc.*, Cynthiana, Kentucky; to engage *de novo* through its subsidiary, J.B. Finance Company, Inc., Cynthiana, Kentucky, in the business of consumer finance pursuant to § 225.25(b)(1)(i) of the Board's Regulation Y. These activities will be conducted in the geographic area of Cynthiana, Harrison County, and counties contiguous to Harrison County, all within the State of Kentucky.

Board of Governors of the Federal Reserve System, November 10, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-26546 Filed 11-16-88; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; William C. Murphy, et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 1, 1988.

A. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *William C. Murphy*, University Park, Texas; to acquire 39.25 percent of the voting shares of Fidelity Resources Company, Dallas, Texas, and thereby indirectly acquire Fidelity National Bank, Dallas, Texas.

2. *Robert B. Sharples*, and Larry J. Jurica, both of George West, Texas; to each acquire 6.35 percent of the voting shares of Luling Bancshares, Inc., Luling, Texas, and thereby indirectly acquire the First National Bank in Luling, Luling, Texas.

Board of Governors of the Federal Reserve System, November 10, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-26547 Filed 11-16-88; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corporation, Los Angeles, CA; Proposal To Underwrite and Deal in Debt Securities to a Limited Extent

Security Pacific Corporation, Los Angeles, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a), of the Board's Regulation Y (12 CFR 225.23(a)), for permission for its subsidiary Security Pacific Securities, Inc., Los Angeles, California ("SPSI"), to underwrite and deal in, to a limited degree, debt securities of all types (including corporate, governmental and other debt securities, convertible debt securities and asset-related securities secured by, or representing interests in, secured or unsecured loans, receivables and other debt securities) including, in particular, (1) corporate debt securities (including both unsecured and secured corporate debt securities); and (2) mortgage-backed securities secured by, or representing interests in, mortgages secured by commercial real estate, including multi-family residential projects.

SPSI is currently authorized to underwrite and deal in, to a limited extent, 1-4 family mortgage-related securities, municipal revenue bonds, commercial paper and consumer-receivable-related securities ("ineligible securities"). *Security Pacific Corporation*, 73 Federal Reserve Bulletin 622 (1987); and *Chemical New York Corporation, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, Manufacturers Hanover Corporation and Security Pacific Corporation*, 73 Federal Reserve Bulletin 731 (1987). SPSI is also authorized to underwrite and deal in U.S. government securities pursuant to § 225.25(b)(16) of the Board's Regulation Y ("bank-eligible securities"). 12 CFR 225.25(b)(16).

Security Pacific has applied to underwrite and deal in debt securities within the framework of limitations established in the Board's *Citicorp, J.P. Morgan & Co. Incorporated and Bankers Trust New York Corporation* Order, including the 5 percent gross revenue limitation. 73 Federal Reserve Bulletin 473 (1987). Accordingly, under this application the amount of gross revenue SPSI would receive from the proposed new ineligible underwriting activity and the previously approved ineligible activity would not exceed in the aggregate 5 percent of the total gross revenues of SPSI.

The Board has not previously determined that the proposed underwriting and dealing activities are permissible under section 4(c)(8) of the Bank Holding Company Act. Section 4(c)(8) of the Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto".

Security Pacific contends that the proposed activities are closely related to banking because banks have generally engaged in activities that are functionally and operationally similar to underwriting and dealing in debt securities. These services include underwriting and dealing in bank-eligible and ineligible securities; investing, buying and selling investment quality corporate debt securities, as permitted by the Office of the Comptroller of the Currency; arranging private placements of securities; providing investment advisory, investment management and trust services; providing letters of credit and other credit enhancements for private and public issues of corporate debt; organizing loan syndications as well as purchasing and selling loans; and overseas underwriting and dealing.

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices". Security Pacific maintains that permitting bank holding companies to engage in the proposed activities would result in

increased competition which would lower underwriting spreads, greater liquidity of the proposed securities, greater customer convenience and increased efficiency. The proposed activities would also permit bank holding companies to further diversify income. Security Pacific contends that the proposed activities would not result in adverse effects because of the similarities in the general nature of the proposed activity and its current ineligible activity which the Board has previously determined would not result in adverse effects when undertaken in compliance with the *Citicorp/Morgan/Bankers Trust* conditions and existing laws and regulations.

Security Pacific contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Security Pacific National Bank, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. Security Pacific states that it would not be "engaged principally" in underwriting and dealing in securities in light of the 5 percent limitation on these activities. *See, Citicorp, J.P. Morgan & Co. Incorporated and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987), *aff'd sub nom., Securities Industry Association* v. *Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir. 1988), *cert. denied*, 108 S. Ct. 2830 (1988); and *Securities Industry Association* v. *Board of Governors/Chase*, 847 F.2d 890 (D.C. Cir. 1988).

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than December 10, 1988.

Board of Governors of the Federal Reserve System, November 10, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-26544 Filed 11-16-88; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corporation, Los Angeles, CA; Proposal To Underwrite and Deal in Equity Securities to a Limited Extent

Security Pacific Corporation, Los Angeles, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a), of the Board's Regulation Y (12 CFR 225.23(a)), for permission for its subsidiary Security Pacific Securities, Inc., Los Angeles, California ("SPSI"), to underwrite and deal in, to a limited degree, equity securities, including, without limitation, common stock or other ownership interests in domestic and foreign corporations or other entities, American Depositary Receipts, all types of preferred stock, and options and warrants on the above securities, but not including ownership interests in open-end investment companies.

SPSI is currently authorized to underwrite and deal in, to a limited extgent, 1–4 family mortgage-related securities, municipal revenue bonds, commercial paper and consumer-receivable-related securities ("ineligible securities"). *Security Pacific Corporation*, 73 Federal Reserve Bulletin 622 (1987); and *Chemical New York Corporation, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, Manufacturers Hanover Corporation and Security Pacific Corporation*, 73 Federal Reserve Bulletin 731 (1987). SPSI is also authorized to underwrite and deal in U.S. government securities pursuant to § 225.25(b)(16) of the Board's Regulation Y ("bank-eligible securities"). 12 CFR § 225.25(b)(16).

Security Pacific has applied to underwrite and deal in equity security within the framework of limitations established in the Board's *Citicorp, J.P. Morgan & Co. Incorporated and Bankers Trust New York Corporation* Order, including the 5 percent gross revenue limitation. 73 Federal Reserve Bulletin 473 (1987). Accordingly, under this application the amount of gross revenue SPSI would receive from the proposed new ineligible underwriting activity and the previously approved ineligible activity would not exceed in the aggregate 5 percent of the total gross revenues of SPSI.

The Board has not previously determined that the proposed underwriting and dealing activities are permissible under section 4(c)(8) of the Bank Holding Company Act. Section 4(c)(8) of the Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

Security Pacific contends that the proposed activities are closely related to banking because banks have generally engaged in activities that are functionally and operationally similar to underwriting and dealing in equity securities. These services include underwriting and dealing in bank-eligible and ineligible securities; investing in, buying and selling investment quality corporate debt securities as well as selling asset-related securities as permitted by the Office of the Comptroller of the Currency; bidding in U.S. Treasury and state and local government auctions; placing commercial paper with institutional investors; negotiating with issuers of asset-related securities; dealing in all of the above securities; corporate lending; and investing in equity securities pursuant to section 4(c)(6) of the BHC Act.

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Security Pacific maintains that permitting bank holding companies to engage in the proposed activities would result in increased competition, lower underwriting spreads, greater liquidity of the proposed securities, greater customer convenience and increased efficiency. The proposed activities would also permit bank holding companies to further diversify income. Security Pacific contends that the proposed activities would not result in adverse effects because of the similarities in the general nature of the proposed activity and its current ineligible activity which the Board has previously determined would not result in adverse effects when undertaken in compliance with the *Citicorp/Morgan/Bankers Trust* conditions and existing laws and regulations.

Security Pacific contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Security Pacific National Bank, with a firm that is "engaged principally" in the

"underwriting, public sale or distribution" of securities. Security Pacific states that it would not be "engaged principally" in underwriting and dealing in securities in light of the 5 percent limitation on these activities. *See, Citicorp, J.P. Morgan & Co. Incorporated and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987), *aff'd sub nom., Securities Industry Association* v. *Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir. 1988), *cert. denied*, 108 S. Ct. 2830 (1988); and *Securities Industry Association* v. *Board of Governors/Chase*, 847 F.2d 890 (D.C. Cir. 1988).

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than December 10, 1988.

Board of Governors of the Federal Reserve System, November 10, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-26549 Filed 11-16-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Board of Tea Experts; Rechartering

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the rechartering of the Board of Tea Experts by the Commissioner of Food and Drugs. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: Authority for this board will expire on January 3, 1991, unless the Commissioner formally determines that rechartering is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: November 10, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-26602 Filed 11-16-88; 8:45 am]

BILLING CODE 4160-01-M

Anti-Infective Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the renewal of the Anti-Infective Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on October 7, 1990, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: November 10, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-26603 Filed 11-16-88; 8:45 am]

BILLING CODE 4160-01-M

Dermatologic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the renewal of the Dermatologic Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on October 7, 1990, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: November 10, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-26604 Filed 11-16-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 88F-0303]

Sigma Coatings: Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sigma Coatings has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,3-benzenedimethanamine, 1,4-benzenedimethanamine, 3-diethylaminopropylamine, benzyl alcohol, salicylic acid, N-*beta*-aminoethyl-*gamma*-aminopropyltrimethoxysilane, and castor oil, hydrogenated, polymer with ethylenediamine, 12-hydroxyoctadecanoic acid, and sebacic acid as components of coatings that contact food.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B4067) has been filed by Sigma Coatings, Harvey, LA 70059, proposing that § 175.300 *Resinous and polymeric coatings* be amended to provide for the safe use of 1,3-benzenedimethanamine, 1,4-benzenedimethanamine, 3-diethylaminopropylamine, benzyl alcohol, salicylic acid, N-*beta*-aminoethyl-*gamma*-aminopropyltrimethoxysilane, and castor oil, hydrogenated, polymer with ethylenediamine, 12-hydroxyoctadecanoic acid, and sebacic acid as components of coatings that contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the

Federal Register in accordance with 21 CFR 25.40(c).

Dated: November 4, 1988.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-26555 Filed 11-16-88; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Final Funding Priorities for Grants for Preventive Medicine Residency Training Programs

The Health Resources and Services Administration announces the final funding priorities for Grants for Preventive Medicine Residency Training Programs which will be used in making grants awards in Fiscal Year 1989.

Section 793 authorizes the award of grants to accredited schools of medicine, osteopathy and public health to meet the costs of projects to:

(1) Plan and develop new approved residency training programs and to maintain or improve existing approved residency training programs in preventive medicine; and

(2) Provide financial assistance to residency trainees enrolled in such programs.

Review Criteria

The review of applications will take into consideration the following criteria:

(1) The potential effectiveness of the proposed project in carrying out the training purposes of section 793 of the PHS Act;

(2) The extent of responsiveness to the project requirements;

(3) The administrative and management capability of the applicant to carry out the proposed project in a cost-effective manner;

(4) The degree to which the proposed training program emphasizes health promotion and disease prevention;

(5) The degree to which the applicant demonstrates institutional commitment to the proposed program; and

(6) The history of the program including number of residents who successfully completed the program.

Proposed funding priorities were published in the **Federal Register** of August 17, 1988 (FR 53 31103). Three comments were received during the 30-day comment period. The comments received and responses to the comments are presented below:

Proposed priority for enrollment of underrepresented minorities.

One respondent recommended continuing efforts to increase enrollment of women physicians.

This comment is appreciated and the need to continue to attract women physicians to the specialty of preventive medicine is recognized. The proposed priority, however, is based on race/ethnicity rather than sex. It did not appear that the respondent was suggesting that the priority be amended.

The respondent also commented that underrepresented minorities are more likely to choose a medical specialty offering more (financial) reward than preventive medicine/public health. Again, it is realized that other medical specialties may be more financially rewarding in most instances, but it is also understood that preventive medicine can be professionally rewarding. Further, data indicate a continuing disparity in the burden of death and illness experienced by blacks and other minorities. Studies have concluded that minority physicians have helped to alleviate imbalances in health care availability by increasing minority groups' access to health care, and by providing health care in medically underserved areas. The proposed priority reflects an interest in increasing the representation of minorities in all medical residency grant programs administered by the Health Resources and Services Administration.

Another respondent suggested that the priority proposed to train four residents in the academic year and four residents in the field year be changed to reduce the number to three in each year. It is acknowledged that it may be difficult for some small programs to achieve this number in a consistent manner for each year of training. However, this number should be achievable for the majority of programs, especially with trainee support available through the grant program. The number previously used in addressing this priority was increased for the 1986 application cycle from three to four. Most applicants that requested consideration of the priority during the 1986 grant cycle were awarded the priority based on evidence presented that the numbers could be achieved. Therefore, the priority should be applied based on enrollment of four residents in the academic year and four residents in the field year.

Therefore, the final funding priorities as proposed will be retained as follows:

Priority will be given to those projects which will:

(1) Increase enrollment of underrepresented minorities in proportion or more to their numbers in the general population or can document extent of demonstrated net increase of underrepresented minorities (i.e., Black, Hispanic and American Indian/Alaskan Native) over average enrollment of the past three years in postgraduate year (PGY) trainees.

(2) Conduct residency training in areas of general preventive medicine or public health.

(3) Train at least four residents in the academic year and four residents in the field year and provide evidence that the projected number can be realized from a current or projected applicant pool.

This program is listed at 13.117 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental. Review of Federal programs (as implemented through 45 CFR Part 100).

Dated: November 10, 1988.

John H. Kelso,

Acting Administrator.

[FR Doc. 88-26554 Filed 11-16-88; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-010-09-4320-18]

Arizona; Arizona Strip District, Designated Closure Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Formal closure of selected public lands to use by all members of the Suidae (Swine) Family including domestic and feral hogs, and wild boar.

SUMMARY: In accordance with 43 CFR Part 8364 and 43 CFR Part 4140, and in order to protect soils, vegetation, livestock, wildlife resources and wildlife habitat, riparian systems, wilderness lands, public safety, and other values found on certain public lands located within the Arizona Strip District of northwestern Arizona, it is necessary to close certain areas to all swine. This closure notice will expedite future actions to impound, sell, or destroy all swine found on the subject public lands.

EFFECTIVE DATE: December 19, 1988.

Inquiries should be sent to District Manager, Bureau of Land Management, Arizona Strip District, 390 North 3050 East, St. George, Utah 84770.

FOR FURTHER INFORMATION CONTACT: Robert D. Roudabush or George W. Cropper, (801) 628-4491.

SUPPLEMENTARY INFORMATION: Feral and exotic wild swine are neither part of the natural biota of this area nor

compatible with maintenance of natural systems in designated wilderness areas. Their foraging habits result in destructive soil disturbance and uprooting of perennial plants. In addition to competing with wildlife for food, they can also prey upon other animals including wild turkeys and young deer.

The public land affected by this closure notice are administered by the Bureau of Land Management located within the following described areas (Gila and Salt River Meridian) of Mt. Trumbull and the Virgin River, including Mt. Trumbull and the Mt. Logan Wilderness areas.

Township	Range	Section
33 North	8 West	All.
33 North	9 West	All.
34 North	7 West	All.
34 North	8 West	All.
34 North	9 West	All.
35 North	7 West	All.
35 North	8 West	All.
35 North	9 West	All.
39 North	16 West	All.
40 North	15 West	All.
40 North	16 West	All.
41 North	15 West	All.

Anyone claiming ownership of any swine on the subject lands will have thirty (30) days after the effective date of this order to remove their animals.

This closure order will remain in effect until lifted or modified by the authorized officer. The closure applies only to federal land administered by the Bureau of Land Management.

Dated: November 7, 1988.

G. William Lamb,

Arizona Strip District Manager.

[FR Doc. 88-26551 Filed 11-16-88; 8:45 am]

BILLING CODE 4310-32-M

Iditarod National Historic Trail Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 90-543 that a meeting of the Iditarod National Historic Trail Advisory Council will be held December 13 and 14, 1988 beginning 8:30 a.m. each day at the BLM Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska. The council will discuss rights-ways and trail administration and management issues.

The agenda is as follows:

1. Approve last meeting's minutes.
2. Introduce new anchorage district manager.
3. Trail management issues.
4. Public comment.
5. Discussion.
6. Adjourn.

The meeting is open to the public. The public may present oral testimony to the Council by making prior arrangements with the Anchorage District Manager's office at (907) 267-1246.

FOR FURTHER INFORMATION CONTACT: Dean Littlepage, (907) 267-1225, BLM Anchorage District, 6881 Abbott Loop Road, Anchorage, Alaska 99507.

Richard Vernimen,

Anchorage District.

[FR Doc. 88-26518 Filed 11-16-88; 8:45 am]

BILLING CODE 4310-JA-M

[U-59069]

Utah; Notice of 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-59069 for lands in Grand County, Utah, was timely filed and required rentals and royalties accruing from December 1, 1987, 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 16⅔ 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-59069 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 December 1, 1987, 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. 88-26553 11-16-88; 8:45 am]

BILLING CODE 4310-DQ-M

[CO-942-09-4520-12]

Colorado; Filing of Plats of Survey

November 7, 1988.

The plats of survey of the following described lands, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., November 7, 1988.

The plat representing the dependent resurvey of a portion of the south boundary, the west boundary, and portions of the north boundary and subdivisional lines, and the subdivision of section 7, T. 50 N., R. 2 W., New Mexico Principal Meridian, Colorado, Group No. 825, was accepted October 31, 1988.

The plat representing the dependent resurvey of portions of the south boundary and subdivisional lines, and the subdivision of section 12, T. 50 N., R. 3 W., New Mexico Principal Meridian, Colorado, Group No. 825, was accepted October 31, 1988.

The plat representing the dependent resurvey of portions of the Second Standard Parallel South (south boundary), west boundary, and subdivisional lines, and the subdivision of certain sections, T. 10 S., R. 94 W., Sixth Principal Meridian, Colorado, Group No. 800, was accepted October 31, 1988.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 4 and 5, T. 11 S., R. 94 W., Sixth Principal Meridian, Colorado, Group No. 800, was accepted October 31, 1988.

These surveys were requested by the U.S. Forest Service, Rocky Mountain Region, to identify the National Forest boundaries and to support its timber sales program.

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. 88-26552 Filed 11-16-88; 8:45 am]

BILLING CODE 4310-JB-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 9534, Block 15, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with

support activities to be conducted from an existing onshore base located at Fresh Water City, Louisiana.

DATES: The subject DOCD was deemed submitted on November 4, 1988. Comments must be received on or before December 2, 1988 or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. W. Williamson; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2874.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 7, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–26550 Filed 11–16–88; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31343]

North Carolina & Virginia Railroad, Lease Exemption, Southern Railway Co.'s Line Between Burkeville, VA, and O&H Junction, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 11343, et seq., the lease by the North Carolina & Virginia Railroad from the Southern Railway Company of 72.15 miles of line and rail-related property between Burkeville, VA and O&H Junction, NC, subject to standard employee protection conditions.

DATES: This exemption will be effective on November 24, 1988. Petitions for reconsideration must be filed by December 7, 1988.

ADDRESSES: Send pleadings referring to Finance Docket No. 31343 to:.

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representatives: William L. Slover, Kelvin J. Dowd, 1224 Seventeenth St., NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721].

Decided: November 10, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips. Commissioner Simmons did not participate in the disposition of this proceeding.

Noreta R. McGee,

Secretary.

[FR Doc. 88–26561 Filed 11–16–88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States v. City of Lowell* has been lodged with the United States District Court for the District of Massachusetts. The consent decree addresses violations by the City of Lowell, Massachusetts of the Clean Water Act in regard to its National Pollutant Discharge Elimination System ("NPDES") permits, including effluent limitation, operation, maintenance, staffing, and bypass violations.

The proposed Consent Decree establishes schedules to remedy Lowell's violations and requires payment of a civil penalty of $180,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. City of Lowell*, D.J. Ref. 90–5–1–1–2709.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Massachusetts, 1107 John W. McCormack, Post Office and Courthouse, Boston, Massachusetts 02109, and at the Office of Regional Counsel, United States Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Rm. 2203, Boston, Massachusetts 02203. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 6317, 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, Department of Justice. In requesting a copy, please refer to the referenced case name and D.J. Ref. number and enclose a check in the amount of $2.40 (ten 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. 88-26548 Filed 11-16-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Cascade Locks Lumber Co. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 24, 1988–October 28, 1988 & October 31, 1988–November 4, 1988.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-20,894; Cascade Locks Lumber Co., Cascade Locks, OR

TA-W-20,925; Pinebrook Hat Co., Inc., Jersey City, NJ

TA-W-20,882; Discovery Systems, Dublin, OH

TA-W-20,909; APV Chemical Machinery, Saginaw, MI

TA-W-20,880; Accurate Die Casting Co., Fayetteville, NY

TA-W-20,873; Newcor, Inc., Bay City, MI

TA-W-20,907; Tecumseh Products Co., Engine & Transmission Group, Grafton, WI

TA-W-20,920; Kidde Automated Systems, Inc., Pawcatuck, CT

In the following cases, the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,901; Lacey Plywood, Lacey, WA

U.S. imports of softwood plywood are negligible.

TA-W-21,162; Bethenergy Mines, Inc., Marianna Mines #58, Marianna, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,918; H.H. Robertson Co., Ambridge, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,878; U.S. Can Co., Plant #23, Passaic, NJ

U.S. imports of metal containers are negligible.

TA-W-20,904; Poco Graphite, Inc., Decatur, TX

The investigation revealed that criterion (1) has not been met. Sales or production or both did not decline during the relevant period as required for certification.

TA-W-20,288; ITT Penninsula Plywood Div., Port Angeles, WA

U.S. imports of softwood plywood are negligible.

TA-W-20,903; Oxford Sportswear & Apparel, Toccoa, GA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,995-TA-W-20996; Eastman Whipstock Mfg, Abilene, TX

Imports of oilfield machinery into the U.S. are negligible.

TA-W-20,899; Dow Corning Corp., Springfield Plant, Springfield, OR

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,912; Champion International Corp., Bonner Sawmill & Planner, Bonner, MT

U.S. imports of softwood, plywood are negligible.

Affirmative Determinations

TA-W-20,893; Caterpillar Industrial, Inc., Dallas, OR

A certification was issued covering all workers separated on or after July 15, 1988.

TA-W-20,921; L.B. Simmons, Energy, Inc., Ratliff City, OK

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-20,895; Coleco Industries, Inc., Gloversville, NY

A certification was issued covering all workers separated on or after August 10, 1987.

TA-W-20,897; Coleco Industries, Inc., Amsterdam, NY

A certification was issued covering all workers separated on or after August 10, 1987.

TA-W-20,917; Goldstar Hat and Cap Co., Union City, NJ

A certification was issued covering all workers separated on or after August 22, 1987.

TA-W-21,177; Dreiling Oil, Inc., Victoria, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-20,914; Cincinnati Microwave, Inc., Cincinnati, OH

A certification was issued covering all workers separated on or after July 31, 1987.

TA-W-20,949; Gillespie Oil Co., Abilene, TX

A certification was issued covering all workers separated on or after August 30, 1987.

TA-W-21,121; Mon-Dak Tank, Inc., Williston, ND

A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1986.

TA-W-20,869; Devon Apparel, Inc., Philadelphia, PA

A certification was issued covering all workers separated on or after August 2, 1987.

TA-W-20,879; Wilshire Knitting Mills, Philadelphia, PA

A certification was issued covering all workers separated on or after August 3, 1987.

TA-W-20,936; Conseis, Inc., Houston, TX

A certification was issued covering all workers separated on or after January 1, 1986 and before January 1, 1988.

TA-W-21,011; Klaus & Son Machine & Engine Works, Hill City, KS

A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1986.

TA-W-20,915; Dikmark, Ltd, Perth Amboy, NJ

A certification was issued covering all workers separated on or after August 22, 1987.

TA–W–21,019; Norton Drilling Co., Labbock, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,020; Norton Drilling Co., Rock Springs, WY

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,000; Felderhoff Brothers Drilling Co., Inc.

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–21,001; Felderhoff Production Co., Inc., Gainesville, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA–W–20,908; Wenner Petroleum Corp., Englewood, CO

A certification was issued covering all workers separated on or after December 1, 1987.

TA–W–20,908A; Wenner Petroleum Corp., At Various Locations in Colorado

A certification was issued covering all workers separated on or after December 1, 1987.

TA–W–20,908B; Wenner Petroleum Corp., At Various Locations in Michigan

A certification was issued covering all workers separated on or after December 1, 1987.

TA–W–20,908C; Wenner Petroleum Corp., At Various Locations in Ohio

A certification was issued covering all workers separated on or after December 1, 1987.

TA–W–20,905; Reading & Bates Petroleum Co., Headquartered in Tulsa, OK

TA–W–20,905A	OK
TA–W–20,905B	CO
TA–W–20,905C	IL
TA–W–20,905D	LA
TA–W–20,905E	MS
TA–W–20,905F	NM
TA–W–20,905G	ND
TA–W–20,905H	OK
TA–W–20,905I	TX
TA–W–20,905J	WY

A certification was issued covering all workers separated on or after January 1, 1988.

TA–W–20,926; Randleman Manufacturing Co (Formerly Known As Woodlawn Manufacturing Co.), Woodlawn, NC

A certification was issued covering all workers separated on or after August 17, 1987.

I hereby certify that the aforementioned determinations were issued during the period October 24, 1988—October 28, 1988 and October 31, 1988—November 4, 1988. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: November 8, 1988.

[FR Doc. 88–26635 Filed 11–16–88; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–20,956]

Marline Petroleum Corp., Houston, TX; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 12, 1988 in response to a worker petition which was filed on behalf of workers at Marline Petroleum Corporation, Houston, Texas.

The retroactive provisions of section 1421(a)(1)(B) of the Omnibus Trade and Competitiveness Act of 1988 do not apply to workers who are engaged in the production of crude oil or refined petroleum products if such workers were eligible to be certified for benefits under the Trade Act prior to the implementation of the retroactive provisions.

All workers were separated from Marline Petroleum Corporation more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker of whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed on this 3rd day of November 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88–26628 Filed 11–16–88; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–21,124]

OWS, Inc., Plainville, KS; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 26, 1988 in response to a worker petition received on September 26, 1988 which was filed on behalf of workers at OWS, Inc., Plainville, Kansas.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–21,126). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 2nd day of November 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88–26626 Filed 11–16–88; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–20,971]

Recovery Resources Corp., Gorham, KS; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 12, 1988 in response to a worker petition which was filed on behalf of workers at Recovery Resources Corporation, Gorham, Kansas.

The retroactive provisions of section 1421(a)(1)(B) of the Omnibus Trade and Competitiveness Act of 1988, do not apply to workers who are engaged in the production of crude oil or refined petroleum products if such workers were eligible to be certified for benefits under the Trade Act prior to the implementation of the retroactive provisions.

All workers were separated from Recovery Resources Corporation more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 7th day of November 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88–26625 Filed 11–16–88; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-21,215]

R. K. McLeory, Inc., Abilene, TX; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 3, 1988 in response to a worker petition received on October 3, 1988 which was filed on behalf of workers at R. K. McLeory, Incorporated, Abilene, Texas.

The retroactive provisions of section 1421(a)(1)(B) of the Omnibus Trade and Competitiveness Act of 1988, begin on October 1, 1985 R. K. McLeory, Incorporated terminated on December 31, 1984 prior to the applicable period of consideration under the Omnibus Trade and Competitiveness Act of 1988. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 3rd day of November 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88-26627 Filed 11-16-88; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,032]

Stahlco Drilling Co., Amarillo, TX; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 19, 1988 in response to a worker petition received on September 19, 1988 which was filed on behalf of workers at the Stahlco Drilling Company, Amarillo, Texas.

The retroactive provisions of section 1421(a)(1)(B) of the Omnibus Trade and Competitiveness Act of 1988, begin on October 1, 1985. The Stahlco Drilling Company ceased operations on February 19, 1985 prior to the retroactive provisions of the Omnibus Trade and Competitiveness Act of 1988. Consequently, further investigation in this cas would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 7th day of November 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88-26629 Filed 11-16-88; 8:45 am]

BILLING CODE 4510-30-M

Reestablishment; Federal Committee on Apprenticeship

Notice is hereby given that after consultation with the General Services Administration, it has been determined that the Federal Committee on Apprenticeship, whose charter expired September 27, 1988, is hereby reestablished. This action is necessary and in the public interest.

The Committee will be an effective instrument for providing assistance through advice and counsel to the Secretary of Labor and the Assistant Secretary of Labor for Employment and Training in their development and implementation of administration policies resulting from a review of the apprenticeship system, which includes a series of key questions impacting on apprenticeship and its future role in meeting America's needs for a skilled work force; furnishing recommendations in the following five issues surrounding the review and possible expansion of the apprenticeship concept:

- Should/can the apprenticeship concept be broadened to all industries?
- What should be the limitations or parameters, in terms of occupations, of an expanded apprenticeship effort?
- What should be the delivery system for an expanded apprenticeship system?
- What should be the role of government in an expanded apprenticeship system?
- How can apprenticeship be more effectively linked to the education system?

The Committee will consist of 8 representatives of employers, 8 representatives of labor, and 9 representatives of the public, including one or more educators.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from the date of this publication.

Interested persons are invited to submit comments regarding the renewal of the Federal Committee on Apprenticeship. Such comments should be addressed to: Mrs. M.M. Winters, Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-4644, Washington, DC 20210.

Signed at Washington, DC, this 10th day of November 1988.

Ann McLaughlin,

Secretary of Labor.

[FR Doc. 88-26573 Filed 11-16-88; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-88-215-C]

D & J Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

D & J Coal Company, P.O. Box 683, Williamsburg, Kentucky 40769 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Madco No. 6 Mine (I.D. No. 15-15980) located in Whitley County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous miners, longwall face equipment and loading machines. The monitor is required to be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three-wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposed to use hand held continuous oxygen and methane monitors instead of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three-wheel tractor would be equipped with a hand-held continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(b) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any methane buildup between trips;

(c) If one percent methane is detected, the operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent;

(d) A spare continuous monitor would be available to assure that all coal hauling tractors would be equipped with a continuous monitor;

(e) Each monitor would be removed from the mine at the end of the shift, and would be inspected and charged by a qualified person. The monitor would also be calibrated monthly; and

(f) No alterations or modifications would be made in addition to the manfuacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 19, 1988. Copies of the petition are available for inspection at that address.

Date: November 10, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-26630 Filed 11-16-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-208-C]

Fido Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Fido Coal Company, P.O. Box 75, Emlyn, Kentucky 40730 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Madco No. 3 Mine (I.D. No. 15-15872) located in Whitley County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous miners, longwall face equipment and loading machines. The monitor is required to be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three-wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 20% of the coal is hand loaded. Approximately 35% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use handheld continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors. In further support of this request, petitioner states that:

(a) Each three-wheel tractor would be equipped with a hand held continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(b) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any methane buildup between trips;

(c) If one percent methane is detected, the operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent;

(d) A spare continuous monitor would be available to assure that all coal hauling tractors would be equipped with a continuous monitor;

(e) Each monitor would be removed from the mine at the end of the shift, and would be inspected and charged by a qualified person. The monitor would also be calibrated monthly; and

(f) No alterations or modifications would be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 19, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: November 10, 1988.

[FR Doc. 88-26631 Filed 11-16-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-199-C]

McElroy Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

McElroy Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its McElroy Mine (I.D. No. 46-01437) located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. As an alternate method, petitioner proposes to seal the Pittsburgh No. 8 Coal Seam from the surrounding strata at the affected wells by using specific techniques and procedures as outlined in the petition.

3. In addition, petitioner states that—

(a) Before the well is plugged to the Pittsburgh coalbed, a directional survey would be run on the well to determine the exact location of the wellbore in the coalbed; but if it does not penetrate the wellbore in mining, petitioner would within reason, continue mining until the well is located. A suite of geophysical logs would be run through the hole, if physically possible, to determine the exact depth of the coalbed. These logs would consist of a caliper survey, resistivity log and a background gamma ray log;

(b) Petitioner would, during its normal mining cycle, mine through and remove that segment of the plug existing between the mine pavement and roof. A Federal Mine Inspector would be notified and have the opportunity to be present during the mining through operation;

(c) All personnel in the affected area would be instructed to proceed with caution when mining into and through the well-support pillar; and especially, diligent efforts would be made at all times to assure a gas-free atmosphere in the affected area; and

(d) Methane examinations would be made by qualified pesonnel using approved methane detection equipment at least once during each shift during development and retreat mining and the date and time of such examinations would be recorded on a fireboss date board which would be placed in the area.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 19, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: November 9, 1988.

[FR Doc. 88-26632 Filed 11-16-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-12-M]

Pluess-Staufer (California) Inc.; Petition for Modification of Application of Mandatory Safety Standard

Pluess-Staufer (California), Inc., P.O. Box 825, Lucerne Valley, California 92356 has filed a petition to modify the application of 30 CFR 56.9022 (berms or guards) to its Pluess-Staufer (California), Inc., Mine (I.D. No. 04-00167) located in San Bernardino County, California. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer bank of elevated roadways.

2. Petitioner states that the use of high berms on certain parts of the roadway would result in a diminution of safety because:

(a) The road is too narrow, in many areas, to increase berm height and width due to vertical walls on the inside and outside edges of the road; and

(b) High berms would make it impossible to sidecast snow during the winter months.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 19, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: November 9, 1988.

[FR Doc. 88-26633 Filed 11-16-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-205-C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.507 (power connection points) to its Pyro No. 9 Slope, William Station Mine (I.D. No. 15-13881) located in Union County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that except where permissible power connection units are used, all power-connection points outby the last open crosscut be in intake air.

2. As an alternate method, petitioner proposes to use a non-permissible submersible pump in a return air shaft.

3. In support of this request, petitioner states that—

(a) The pump would be a Jacuzzi Submersible Turbine Line-Slow Style Pump, Model 8LC, driven by a 85 HP, 3 phase, 460 volt, 3450 RPM submersible motor, and

(b) The pump would be installed with the motor and all motor connections below water level. The pump would be controlled by liquid level sensors through an intrinsically safe relay mounted in an Ensign permissible enclosure, X/P-1696-35, with a size 4 starter. Power would be provided through #1-3GGC mine power cable. All of the required circuit protection would be provided at the power center plus motor overloads would be located in the line starter. The ground circuit would be monitored from the power center to the pump motor and all of the electrical equipment would be accessible for inspection.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 19, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: November 10, 1988.

[FR Doc. 88-26634 Filed 11-16-88; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONATUICS AND SPACE ADMINISTRATION

[Notice (88-96)]

Performance Review Board; Senior Executive Service

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of membership of SES Performance Review Board.

SUMMARY: The Civil Service Reform Act of 1978, Pub. L. 95-454 (sec. 405) requires that appointments of individual members to a Performance Review Board be published in the **Federal Register**.

The performance review function for the Senior Executive Service in the National Aeronautics and Space Administration is being performed by the NASA Performance Review Board and the NASA Senior Executive Committee. The latter performs this function for senior executives who report directly to the Administrator or the Deputy Administrator. The following individuals are serving on the Committee and the Board:

Senior Executive Committee

Noel W. Hinners, Chairperson, Associate Deputy Administrator, NASA Headquarters.

Manuel Peralta, Associate Administrator for Management, NASA Headquarters.

C. Howard Robins, Jr., Deputy Associate Administrator for Management, NASA Headquarters.

Thomas P. Murphy, Non-NASA Member.

Performance Review Board

C. Howard Robins, Jr., Chairperson, Deputy Associate Administrator for Management, NASA Headquarters.

Ann P. Bradley, Executive Secretary, Assistant Associate Administrator for Personnel and General Management, NASA Headquarters.

Lawrence J. Ross, Deputy Director, NASA Lewis Research Center.

Louis B. DeAngelis, Director, Human Resources and Organization Development Division, NASA Headquarters.

Charles T. Force, Deputy Associate Administrator for Space Operations, NASA Headquarters.

Gary L. Tesch, Deputy General Counsel, NASA Headquarters.

Paul F. Holloway, Deputy Director, NASA Langley Research Center.

Franklin D. Martin, Deputy Associate Administrator for Space Station, NASA Headquarters.

William C. Keathley, Associate Director for Programs, NASA Goddard Space Flight Center.

Robert Rosen, Deputy Associate Administrator for Aeronautics and Space Technology, NASA Headquarters.

Thomas E. Utsman, Deputy Director, NASA Kennedy Space Center.

Richard J. Wisniewski, Deputy Associate Administrator for Space Flight (Institutions), NASA Headquarters.

Paul J. Weitz, Deputy Director, NASA Johnson Space Center.

Thomas N. Tate, Aeronautics Industries Association, Non-NASA Member.

November 8, 1988.

James C. Fletcher,

Administrator.

[FR Doc. 88-26522 Filed 11-16-88; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before December 19, 1988.

ADDRESSES: Send comments to Ms. Ingrid Reyes, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202-786-0233) and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, DC 20503 (202-395-7316).

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Reyes, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 786-0233 from whom copies of forms and supporting documents are available.

Category: Revisions

Title: Guidelines, Application Materials, and Administrative Requirements for NEH Challenge Grants

Form Number: OMB 3136-0062, Expires 10/31/90 and OMB 3136-0063, Expires 11/30/89

Frequency of Collection: Annually

Respondents: Applicants for, and Recipients of, NEH Challenge Grants

Use: Application for grants; administration of grants

Estimated Number of Respondents: 160 Applicants Annually; 40 Grant Recipients Annually

Frequency of Response: Once to submit an application; Annually for Grant Recipients

Estimated Hours for Respondents to Provide Information: 50 hours for respondents to prepare and submit an application; 80 hours for grant recipients to administer a grant annually

Estimated Total Annual Reporting and Recording Burden: 8,000 hours for applicants (50 hours × 160 applicants) + 12,800 hours for grant recipients (80 hours annually × 40 grants × 4 years [duration of average grant]) = 20,800 hours.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 88-26636 Filed 11-16-88; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL ECONOMIC COMMISSION

Meeting

AGENCY: National Economic Commission.

ACTION: Notice of commission meeting.

SUMMARY: The National Economic Commission ("the commission") will hold a public meeting on November 30, 1988. The commission was established by section 2101 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, enacted December 22, 1987.

DATE, TIME AND PLACE: November 30, 1988, 9:00 a.m.-2:00 p.m., Room 406 Dirksen Senate Office Building, Washington, DC.

Agenda: The November 30 meeting will provide an opportunity for invited witnesses to present their views on how the commission should meet its mandate.

FOR ADDITIONAL INFORMATION CONTACT: Jim Hildreth at (703) 425-8986, National Economic Commission, 734 Jackson Place, NW., Washington, DC 20503.

SUPPLEMENTARY INFORMATION: See **Federal Register**, volume 53, No. 80, Tuesday, April 26, 1988, page 14871.

Drew Lewis,

Co-Chairman.

Robert Strauss,

Co-Chairman.

[FR Doc. 88-26617 Filed 11-16-88; 8:45 am]

BILLING CODE 6820-45-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-409]

Dairyland Power Cooperative, La Crosse Boiling Water Reactor (LACBWR); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Dairyland Power Cooperative (the licensee) for the La Crosse Boiling Water Reactor (LACBWR) located at the licensee's site in Vernon County, Wisconsin.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The

rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(50(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be requried to carry $180 million insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not conslut other agencies or persons in connection with the proposed exemption.

Finding of no Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statment for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Dated at Rockville, Maryland this 8th day of November 1988.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Standardization and Non-Power, Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-26594 Filed 11-16-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-16]

Detroit Edison Co., Enrico Fermi Atomic Power Plant, Unit No. I; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Detroit Edison Company (the licensee) for the Enrico Fermi Atomic Power Plant, Unit 1 located at the licensee's site in Monroe County, Michigan.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988, insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1,

1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of section 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance for the reactor station site. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropraite enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

The information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Ellis Reference and Information Center, Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland this 8th day of November 1988.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects–III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–26595 Filed 11–16–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–458]

Gulf States Utilities Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. NPF–47 issued to Gulf States Utilities Company, (the licensee), for operation of the River Bend Station, Unit 1, located in West Feliciana Parish, Louisiana.

Environmental Assessment

Identification of the Proposed Action

The proposed amendments would revise the provisions in the Technical Specifications (TS) relating to the setpoints and limits associated with recirculation loop operation to allow single recirculation loop operation.

The proposed action is in accordance with the licensee's application for amendment dated April 6, 1988, as supplemented October 20, 1988.

Need for the Proposed Action

The proposed change to the TS is required in order to provide the licensee with the capability to operate with one operable recirculation loop in the event that the second recirculation loop becomes inoperable.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the Technical Specifications. The proposed revisions would specify setpoint and limit requirements for single loop operation. The safety limit minimum critical power ratio would be not less than 1.08 (1.07 for two loop operation) to maintain adequate margin to boiling transition; the maximum average planar linear heat generation rate would be 84% of the two-loop valves to limit the peak clad temperature to 2200°F as required by 10 CFR 50.46 in case of a loss of coolant accident; the recirculation pump drive flow would be limited to 33,000 gallons per minute based on measurements regarding vibration at a foreign reactor; and other requirements for single loop operation regarding thermal-hydraulic stability limits, limits to avoid thermal stratification of reactor coolant in the bottom head because of thermal stress considerations, thermal power limit, recirculation flow control mode, jet pump operability, recirculation flow mismatch, and average power range monitor biased scram and rod block setpoints. These changes would assure that adequate safety margins would be maintained during single loop operation. No changes to the TSs would be made regarding two loop operation. 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 occupational 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 TS involves systems located within the restricted areas as defined in 10 CFR Part 20. It does not

affect nonradiologicl plant effluents and has no other environmental impact. Therefore, the Commission concludes tht there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the Federal Register on May 13, 1988 (53 FR 17131). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there is no significant adverse environmental effect that would result from the proposed action, 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 resources not previously considered in the Final Environmental Statement for the River Bend Station, Unit 1, dated January 1985.

Agencies and Persons Consulted

The NRC staff has 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 this environmental assessment, we conclude that the proposed action will not have a significant adverse effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated April 6, 1988, as supplemented October 20, 1988, which is available for public inspection at the Commission's Public Document Room 2130 L Street, NW., Washington, DC, and at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rocvkville, Maryland, this 4th day of November, 1988.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Director, Project Dirctorate IV, Division of Reactor Projects #III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-26596 Filed 11-16-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133]

Pacific Gas and Electric Co., Humboldt Bay Power Plant, Unit No. 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Pacific Gas and Electric Company (the licensee) for the Humboldt Bay Power Plant, Unit No. 3 located at the licensee's site in Humboldt County, California.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the Federal Register a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $100 million insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resoures

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding Of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and the Eureka-Humboldt County Library, 636 F Street, Eureka, California 95501.

Dated at Rockville, Maryland, this 8th day of November 1988.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-26597 Filed 11-16-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-171]

Philadelphia Electric Co., Peach Bottom Atomic Power Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Philadelphia Electric Company (the licensee) for the Peach Bottom Atomic Power Station, Unit 1 located at the licensee's site in York County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance for the reactor station site. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident given rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemtpion will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland this 8th day of November, 1988.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-26598 Filed 11-16-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-313]

Arkansas Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 113 to Facility Operating License No. DPR-51, to Arkansas Power and Light Company, which revised the Technical Specifications for operation of the Arkansas Nuclear One, Unit No. 1, located in Pope County, Arkansas. The amendment was effective as of the date of its issuance.

The amendment approved changes necessary to permit operation of ANO-1 for Cycle 9. The significant changes for Cycle 9 are the replacement of "black" axial power shaping rods (APSRs) with gray APSRs, use of a mixed core of fuel assemblies with Inconel and Zircaloy spacer grids and use of a low leakage fuel cycle design. A change in the variable low pressure trip setpoint, which is based on the Cycle 9 reload analysis, is also included in this amendment.

The applicants for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on September 16, 1988 (53 FR 36141). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No. Significant Impact related to the action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributed to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated February 1973.

For further details with respect to this action, see (1) the applications for amendment dated July 20 and August 31, 1988, (2) Amendment No. 113 to Facility Operating License No. DPR-51, and (3) the Environmental Assessment and Finding of No Significant Impact (53 FR 44684). All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—II, IV, V and Special Projects.

Dated at Rockville, Maryland, this 8th day of November 1988.

For the Nuclear Regulatory Commission.

Paul W. O'Connor,

Acting Project Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-26599 Filed 11-16-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co., Oyster Creek Nuclear Generating Station; Denial of Amendment to Provisional Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by GPU Nuclear Corporation (GPUN/licensee) for an amendment to Provisionsal Operating License No. DPR-16, issued to the licensee for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey. Notice of Consideration of Issuance of Amendment to Provisional Operating License and Opportunity for Hearing was published in the **Federal Register** on June 13, 1988 (53 FR 22062).

The purpose of the licensee's amendment request was to (1) amend paragraph 2.C(7) of Provisional

Operating License No. DPR–16 to eliminate the requirement for the docketing of inspection results related to the core spray spargers, and obtain NRC restart authorization for each refueling outage, (2) eliminate the submittal of a special report presenting the results of inservice inspection of the core spray spargers during each refueling outage, and (3) propose visual inspections of accessible surfaces in accordance with ASME Code, Section XI.

The staff has denied the licensee's request because the licensee has not provided adequate justification to resolve the staff's concern over the long term behavior of the core spray sparger system. Our denial is based on the following considerations:

(1) During the 1978 and 1980 inspections, crack indications were found in the spargers and annulus piping. The worst crack reported was a through wall circumferential crack extending about the halfway around an upper sparger. Ten clamp assemblies were installed as an interim repair. This repair is not a Code-approved repair and is acceptable only on an interim basis. GPUN currently has no plan to replace these defective components. Therefore, for continued operation of the repaired core spray sparger system, we consider the NRC review and approval of the test methods and results during each refueling outage is necessary to ensure that the integrity of the repaired core spray sparger system is maintained during each cycle of operation.

(2) Although the two latest inspections (1983 and 1986) did not find any new cracks in the core spray sparger system, there is no evidence that the driving forces for the crack initiation and propagation have been completely removed from the system. The residual stresses from welding, cold work and fit-up are usually considered as the main driving forces for the reported cracking. Since these driving forces may be still present, cracking would continue. Therefore, because of the uncertainties in the long term behavior of the repaired core spray sparger system, we require that the license condition as stipulated in the license for the inspection of sparges and piping should be retained to ensure that there is no unacceptable degradation in the system.

(3) The license proposed to perform visual inspections in accordance with ASME Code, section XI (VT–1 for spargers and VT–3 for piping) without NRC review of the inspection method. The staff considers that this may not provide an adequate examination of the core spray sparger system. The staff requires that normal methods be used with resolution required by IE Bulletin 80–13. Staff review of the licensee's inspection methods is necessary to ensure that the method used for the inspection is adequate and to ensure meaningful comparisons of results with those from previous inspections can be made.

The licensee was notified of the Commission's denial of the proposed amendment change by letter dated November 7, 1988.

By December 19, 1988, the licensee may demand a hearing with respect to denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petition should also be sent to the Office of the General Counsel-Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated May 13, 1988, and (2) the Commission's letter to the licensee dated November 7, 1988.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, 20555, and at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 7th day of November 1988.

For the Nuclear Regulatory Commission.

Alexander W. Dromerick,

Project Manager, Project Directorate I–4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–26600 Filed 11–16–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–206]

Southern California Edison Co., et al.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 113 to Provisional Operating License No. DPR–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1, located in San Diego County, California. The amendment was effective as of the date of issuance.

The amendment deletes the requirement to conduct a turbine deck load test every four years and prohibits use of the air pallet system for spent fuel cask handling.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with the amendment requests, of which this action is a part, was published in the **Federal Register** on June 24, 1988 (53 FR 23320). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to this action and has concluded that an environmental impact statement need not be prepared because operation of the facility in accordance with this amendment will have no significant adverse effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated April 28, 1988, (2) Amendment No. 113 to License No. DPR–13, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear

Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland this 8th day of November, 1988.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-26601 Filed 11-16-88; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of a Form

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of a form submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44 U.S.C. Chapter 35), this notice announces a proposed extension of OPM Form 1170, which collects information from the public. The Supplemental Qualifications Statement in conjunction with the SF 171, Application for Federal Employment, collects detailed information from the applicant on his/her qualifications. The Office of Personnel Management then uses the information to examine the applicant's qualifications for Federal positions throughout the Federal Government. It is estimated that approximately 157,741 persons complete OPM Form 1170 at 40 minutes per response, for a total annual burden of 105,160.667 hours. For copies of this proposal, call Grace Butler, on (202) 632-0259.

DATE: Comments on this proposal should be received within 10 working days from the date of this notice.

ADDRESSES: Send or deliver comments to:

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW, Room 6410, Washington, DC 20415

and

Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Richard R. Wood, (202) 632-0728.

U.S. Office of Personnel Management.

Hugh Hewitt,

Deputy Director.

[FR Doc. 88-26587 Filed 11-16-88; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

November 9, 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:

Delta Woodside Industries, Inc.
Common Stock, $.01 Par Value (File No. 7-4020)

Kemper Municipal Income Trust
Common Stock, $.01 Par Value (File No. 7-4021)

Massmutual Participation Investors
Shares of Beneficial Interest, $.01 Par Value (File No. 7-4022)

National City Corp.
Common Stock, $4.00 Par Value (File No. 7-4023)

Patriot Premium Dividend Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-4024)

Templeton Value Fund Inc.
Common Stock, $.01 Par Value (File No. 7-4025)

Medusa Corporation
Common Stock, No Par Value (File No. 7-4026)

The L.S. Starrett Company
Class A Common Stock, No Par Value (File No. 7-4027)

ACM Managed Income Fund Inc.
Common Stock, $.01 Par Value (File No. 7-4028)

Beazer PLC
American Depositary Shares, No Par Value (File No. 7-4029)

Coles Myer, Ltd
American Depositary Shares, No Par Value (File No. 7-4030)

Gitano Group, Inc., (THE)
Common Stock, $.10 Par Value (File No. 7-4031)

Intertan, Inc.
Common Stock, $1.00 Par Value (File No. 7-4032)

Racal Telecom PLC
American Depositary Shares, No Par Value (File No. 7-4033)

Lomas Financial Corporation
Common Stock, $2.00 Par Value (File No. 7-4034)

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 30, 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. 88-26584 Filed 11-16-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

November 9, 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:

Eastern Airlines, Inc.
$3.24 Cumulative Preferred (File No. 7-4010)

Apache Corporation
Common Stock, $1.25 Par Value (File No. 7-4011)

Avon Products, Inc.
$2.00 Equity Redeemable Preferred (File No. 7-4012)

BankAmerica Corporation
7.36% Cumulative Preferred, Series A
6.00% Cumulative Preferred, Series B
$2.875 Cumulative Special Preferred Series C (File No. 7-4013)

Neiman Marcus Group, Inc.
Common Stock, $.01 Par Value (File No. 7-4014)

TCBY Enterprises, Inc.
Common Stock, $.10 Par Value (File No. 7-4015)

Hanson PLC

Warrants to purchase American Depositary Receipts (File No. 7–4016)
Cyprus Minerals Company
Common Stock, No Par Value (File No. 7–4017)
Acuson Corporation
Common Stock, No Par Value (File No. 7–4018)
India Growth Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–4019)

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 30, 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. 88–26585 Filed 11–16–88; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

November 9, 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:

Acuson Corp.
Common Stock, $.0001 Par Value (File No. 7–4035)
Racal Telecom PLC
American Depositary Shares (File No. 7–4036)

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 30, 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 its 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. 88–26586 Filed 11–16–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26274; File Nos. SR–Amex–87–09; SR–PSE–87–21; SR–Phlx–87–05; SR–CBOE–88–21; NYSE–87–40]

Self-Regulatory Organizations, American Stock Exchange, Inc., et al.; Order Granting Accelerated Approval to Proposed Rule Changes Relating to Extension of the Market Index Option Escrow Receipt Pilot Program

On October 18, 1988, the American and Pacific Stock Exchanges, Inc. ("Amex" and "PSE") (collectively the "Exchanges"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] Amendments Nos. 4 and 3, respectively, to proposed rule changes to extend the market index option escrow receipt ("MIOER") pilot program until April 30, 1989.[3]

In August 1985, the Commission approved a one-year pilot program to permit the use of cash, cash equivalents, one or more qualified securities, or a combination of the foregoing, as collateral for escrow receipts issued to cover short call positions in broad-based stock index options.[4] The proposed rule changes are designed to extend the pilot program until such time as the exchanges and the Options Clearing Corporation ("OCC") resolve certain matters concerning the format of the receipt and administration of the program.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposal in the **Federal Register** for several reasons. First, the extension will allow for uninterrupted continuation of a program designed to reduce operational difficulties of banks and trust companies while the options exchanges and the OCC continue their review of the receipt format. Second, the extension will allow the Commission to continue its evaluation of the program's effectiveness. Third, the pilot was previously approved by the Commission and no adverse comments have been received regarding its operation.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [5] that the proposal to extend the operation of the pilot through April 30, 1989, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

Dated: November 10, 1988.

[FR Doc. 88–26638 Filed 11–16–88; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16634; File No. 812–7082]

Golden American Life Insurance Co., et al.

November 10, 1988.

AGENCY: The Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act")

Applicants: Golden American Life Insurance Company ("Golden American"), Western Capital Specialty Managers Separate Account B (the "Account"), and Directed Services, Inc. ("DSI") (collectively, the "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from section 26(a)(2)(C) and 27(c)(2).

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1988).

[3] On October 31 and November 1 and 7, 1988, the Philadelphia Stock Exchange, Inc. ("Phlx"), the Chicago Board Options Exchange, Inc. ("CBOE"), and the New York Stock Exchange, Inc. ("NYSE") respectively, submitted substantially identical proposals for the extension of the MIOER pilot. *See* File Nos. SR–Phlx–87–05, Amendment No. 4; SR–CBOE–88–21; SR–NYSE–87–40, Amendment No. 3.

[4] *See* Securities Exchange Act Release No. 22323 (August 13, 1985), 50 FR 33439 for a description of the pilot.

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30–3(a)(12) (1988).

Summary of Application: Applicants seek an order to the extent necessary to permit the deduction of mortality and expense risk charges and a guaranteed death benefit charge from the Account in connection with the sale of certain variable annuity contracts.

Filing Date: The Application was filed on July 27, 1988 and amended on October 6, 1988, October 21, and November 7, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on December 5, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, c/o Goldn American Life Insurance Company, 909 Third Avenue, 19th Floor, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Wendell M. Faria, Staff Attorney, at (202) 272–3450 or Clifford E. Kirsch, Special Counsel, at (202) 272–2061.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Golden American is a stock life insurance company organized under the laws of the State of Minnesota. From January 2, 1973 through December 31, 1987, the name of the company was St. Paul Life Insurance Company. On December 31, 1987, after all of St. Paul Life Insurance Company's business was sold, the name was changed to Golden American Life Insurance Company. The Account is a separate investment account of Golden American established to act as a funding vehicle for a deferred annuity contract (the "Deferred Annuity") and an annuity certain contract (the "Annuity Certain") (referred to collectively as the "Contracts").

2. The Account is divided into divisions. Each division will invest in shares of a designated series of the Western Capital Specialty Managers Trust (the "Trust") which is an open-end management investment company. The Trust is a series-type mutual fund that contains seven series, each of which will pursue different investment objectives and policies.

3. The Contracts provide for the accumulation of values on a variable basis except to the extent that a portion of the accumulation value is allocated to the Guaranteed Interest Division of the general account. Payment of annuity benefits will be on a fixed or variable basis depending on the annuity option chosen.

4. The Deferred Annuity is an individual flexible premium payment contract which provides for an initial premium payment and for subsequent premium payments if the Contract owner so desires. There is, however, no obligation to make additional payments. The Annuity Certain is an immediate annuity which provides for payments of a single premium and allows for variable annuity payments over a fixed period of time. At any time while a Contract is in effect, part of or all of the value under a Contract may be surrendered for cash payment, or alternatively, the value under the Contracts may be applied to annuity options available at the time of surrender.

5. Deferred loading at a maximum rate of 5.00% of purchase payments is deducted from each premium payment for distribution expenses. If the premium received at issue on one Contract or several simultaneously purchased Contracts exceeds specified limits, Golden American may reduce this load. All deferred loading applicable to initial, single, or additional premium payments is deducted at the time of payment but is advanced to the divisions and recovered from the accumulation value in equal installments on the first and subsequent contract processing dates following the receipt and acceptance of the payment over a period specified in the Contracts. If the Contract owner surrenders a Contract, any remaining deferred loading will be deducted at that time. For the purpose of the sales load provisions of the 1940 Act, the deferred loading is a front-end sales load. Applicants are not relying on Rule 6c–8 in connection with this charge.

6. In the Deferred Annuity, an administrative charge of $40 will be deducted from the accumulation value of a Contract each year to reimburse Golden American for the anticipated actual cost of administrative expenses relating to the Contract. The amount of the administrative charge may be changed by Golden American to meet the anticipated actual cost of administrative expenses relating to the Contract, however, the amount of the administrative charge is guaranteed not to exceed $60 annually.

7. The Contracts provide that a maximum mortality and expense risk charge equal to 0.002477% of the asset values in each division of the Account will be deducted on a daily basis (equivalent to an annual charge of 0.90%). For the Deferred Annuity, approximately 0.55% is allocated to the mortality risk and 0.35% is allocated to the expense risk. In the Annuity Certain, approximately 0.45% is allocated to the mortality risk and 0.45% is allocated to the expense risk. The mortality risk assumed by Golden American arises from its obligations to continue to make annuity payments under the Contracts or income plan provisions of the Contracts, determined in accordance with the guaranteed annuity tables and other provisions of the Contract, regardless of how long each annuitant lives and regardless of how long all payees as a group live. The mortality risk under the Deferred Annuity is the risk that, after annuitization or upon selection of an annuity option with a life contingency, annuitants will possibly live longer than Golden American's actuarial projections indicate, resulting in higher than expected payments during the payout phase, since the payment options are guaranteed not to be less than the tables discussed in the Deferred Annuity. In the Annuity Certain, the mortality risk assumed by Golden American relates to the fact that, at all times, Golden American will offer the option to convert the Annuity Certain, which does not provide for payments based on life contingencies, to one or more annuity contracts that provide for payments based on life contingencies. The mortality risk assumed by Golden American is the risk that annuitants, or beneficiaries after the death of the annuitant, will choose one such option and will possibly live longer than Golden American's actuarial projections indicate, resulting in higher than expected payments during the payment phase, since any payment option is guaranteed not to be less than the tables discussed in the Annuity Certain. In addition, Golden American assumes a risk that the charges for the administrative expenses may not be adequate to cover such expenses.

8. The Deferred Annuity also provides for a guaranteed death benefit annually. The guaranteed death benefit charge for the Contracts is based on the amount of the guaranteed death benefit and is

imposed at a rate of $1.20 per $1,000 of guaranteed death benefit per year. However, the Account may offer other variable annuity contracts in the future. These variable annuity contracts may charge up to $1.20 per $1,000 of guaranteed death benefit per year.

9. Applicants represent that they have reviewed publicly available information regarding the level of the mortality and expense risk and guaranteed death benefit charges under comparable variable annuity contracts currently being offered in the industry, taking into consideration such factors as current charge level or annuity rate guarantees and the markets in which the Contracts will be offered. Based upon the foregoing, Applicants represent that the maximum charges under the Contracts are within the range of industry practice for comparable contracts. Applicants will maintain and make available to the Commission, upon request, a memorandum outlining the methodology underlying this representation.

10. Applicants do not believe that the deferred load imposed under the Contracts will necessarily cover the expected costs of distributing the Contracts. Any "shortfall" will be made up from the general account assets which includes amounts derived from risk charges. Golden American has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts will benefit the Account and the contract owners. Golden American will keep and make available to the Commission, upon request, a memorandum setting forth the basis for this representation.

11. Applicants further represent that the Account will only invest in underlying funds which have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of the company, formulate and approve any plan under Rule 12b-1 under the 1940 Act to finance distribution expenses.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-26639 Filed 11-16-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24745]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 10, 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 December 5, 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 of 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.

Cedar Coal Company (70-7151)

Cedar Coal Company ("Cedar"), 40 Franklin Road, P.O. Box 2021 Roanoke, Virginia 24022, an indirect subsidiary of American Electric Power, Inc. ("AEP"), a registered holding company, has filed a post-effective amendment to its application pursuant to sections 9(a), 10, and 13 of the Act and Rules 86, 90, and 91 thereunder.

Cedar maintains a central Rebuilding Shop ("Shop") to renovate, rebuild and modify major pieces of mining equipment for the mining operations of companies in the AEP system. By order of the Commission dated December 31, 1985 (HCAR No. 23973), Cedar was authorized, through December 31, 1988, to perform those services for AEP system companies at cost, and for non-associated entities at other than cost. Revenues from non-associated companies will not exceed in any calendar year revenues from associated companies. Cedar now requests authorization to continue this business for AEP system companies and for non-associate companies until December 31, 1991.

American Electric Power Company, Inc., et al. (70-7550)

American Electric Power Company, Inc. ("AEP"), a registered holding company, AEP Generating Company ("Generating"), both located at 1 Riverside Plaza, Columbus, Ohio 43215, Appalachian Power Company ("Appalachian"), 40 Franklin Road, SW., Roanoke, Virginia 24011, Columbus Southern Power Company ("Columbus"), 215 North Front Street, Columbus, Ohio 43215, Indiana Michigan Power Company ("Indiana"), One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801, Kanawha Valley Power Company ("Kanawha"), 301 Virginia Street East, Charleston, West Virginia 25327, Kentucky Power Company ("Kentucky"), 1701 Central Avenue, Ashland, Kentucky 41101, Kingsport Power Company ("Kingsport"), 40 Franklin Road, SW., Roanoke, Virginia 24011, Michigan Power Company ("Michigan"), P.O. box 413, Three Rivers, Michigan 49093, Ohio Power Company ("Ohio"), Central Ohio Coal Company ("Central"), both located at 301 Cleveland Avenue SW., Canton, Ohio 44701, and Wheeling Power company ("Wheeling"), 51 Sixteenth Street, Wheeling, West Virginia 26003, subsidiaries of AEP, have filed an application-declaration pursuant to section 6(a), 6(b), 7 and 12(b) of the Act and Rules 45 and 50 thereunder.

During the period from January 1, 1989 through December 31, 1990, Appalachian, Columbus, Indiana, Kentucky and Ohio propose to issue and sell to banks and dealers in commercial paper short-term notes in aggregate principal amounts not exceeding $10 million, $150 million, $200 million, $50 million, and $157 million respectively, at any one time outstanding. Generating, Central, Kanawha, Kingsport, Michigan and Wheeling propose to issue and sell to banks short-term notes in aggregate principal amounts not exceeding $50 million, $27 million, $8 million, $5 million, $12 million and $15 million, respectively, at any one time outstanding. Appalachian, Columbus, Indiana, Kentucky and Ohio request that the proposed issuance and sale of commercial paper be excepted from the competitive bidding requirements of Rule 50, pursuant to Rule 50(a)(5).

Notes to be issued to banks will mature in not more than 270 days. The notes to banks will be sold under various lines of credit. The maximum effective annual interest cost will not exceed 125% of the prime commercial rate in effect from time to time.

AEP requests authorization during the same period to make cash capital contributions from time to time to provide equity capital of up to $80 million for Columbus and $3 million

each to Kingsport, Michigan, and Wheeling.

Middle South Utilities, Inc. et al. (70–7561)

Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, its wholly owned generating subsidiary, System Energy Resources, Inc. ("SERI"), P.O. Box 23070, Jackson, Mississippi 39225 and Middle South's other electric utility subsidiaries ("Electric Utility Subsidiaries"), Arkansas Power & Light Company, P.O. Box 551, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39215, and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112 have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12(b) and 12(d) of the Act and Rules 44, 45 and 50(a)(5) thereunder.

On October 13, 1988 (HCAR No. 24738) the Commission issued a notice of a proposal by SERI to sell and leaseback approximately 10–15% of its 90% undivided ownership interest ("Undivided Interest") in Unit 1 of the Grand Gulf Steam Electric Generating Station ("Grand Gulf 1"). SERI plans to enter into Participation Agreements providing for the sale of its Undivided Interest to a trustee ("Owner/Trustee") acting on behalf of equity investors ("Owner Participants"), and the simultaneous lease of such Undivided Interest pursuant to separate net lease agreements ("Lease") to be entered into with the Owner Trustee/Lessor. In connection with equity funding of the proposed transaction, letters of credit ("Letter of Credit") may be provided by one or more banks or other financial institutions. Upon the occurrence of certain adverse operating events with respect to Grand Gulf 1, the Owner Participants would be entitled to draw on the Letter of Credit in amounts equal to amounts owned by SERI under the Lease. In such case, SERI will become obligated, pursuant to a reimbursement agreement ("Reimbursement Agreement") to be entered into between SERI and the banks to repay the amount drawn under the Letter of Credit.

In order to provide security for its obligations under the Reimbursement Agreement, SERI now states that it will enter into an assignment, for the benefit of the LOC Banks, of its rights under an Availability Agreement among SERI and Middle South's other Electric Utility Subsidiaries and under a Capital Funds Agreement between SERI and Middle South. Both the Electric Utility Subsidiaries and Middle South Propose to consent to and join in such assignment.

The amendment also indicates that 10–25% of the aggregate cost of their Undivided Interest will be provided by the Owner Participants and 75–90% of the cost will be borrowed by them as opposed to the previously stated 15–25% and 75–85%, respectively.

Pennsylvania Electric Company (70–7576)

Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, a subsidiary of General Public Utilities Corporation, a registered holding company ("GPU"), has filed an application pursuant to section 6(b) of the Act and Rule 50(a)(5) thereunder.

Penelec proposes to issue and sell from time to time through December 31, 1989 up to $100 million of additional first mortgage bonds ("Bonds") and up to $100 million of medium term securities either as first mortgage bonds or unsecured notes ("MTNs") provided that the total principal amount of such Bonds and MTNs does not exceed $100 million.

The Bonds and any MTNs issued as first mortgage bonds are to be issued under Penelec's Mortgage and Deed of Trust ("Mortgage"). The Bonds will have a term of not less than one and not more than 35 years but will be subject to earlier redemption or retirement upon the occurrence of certain events. In addition, the Bonds may be subject to optional redemption in whole or in part, by Penelec beginning not earlier than one year after issuance thereof, at various premiums above the principal amount thereof. The Bonds may also be entitled to mandatory sinking fund provisions.

Unsecured MTNs would be issued under an indenture between Penelec and a trustee to be selected. Penelec will publicly offer the MTNs from time to time as the need for funds arises through one or more agents. The MTNs will be sold primarily based on their credit ratings with interest rates negotiated at the time of sale based on spreads over comparable maturity U.S. Treasury securities. The maturity dates of the MTNs will range from 9 months to 10 years to be determined by agreement between Penelec and the respective purchasers. The MTNs will not be redeemable by Penelec except that MTNs with a maturity in excess of five years will be redeemable at Penelec's option five years after issuance.

Penelec request authorization to begin negotiations to place the Bonds and MTNs. It may do so.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–26540 Filed 11–16–88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft Change 2, Advisory Circular 27–1, Certification of Normal Category Rotorcraft, and Draft Change 1, Advisory Circular 29–2A, Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Availbility of draft advisory circular (AC) changes and notice of meeting.

SUMMARY: This notice announces the availability of and request for comments on Draft Change 2, AC 27–1, Certification of Normal Category Rotorcraft, and Draft Change 1, AC 29–2A, Certification of Transport Category Rotorcraft. The draft changes contain guidance material for demonstrating compliance with Parts 27 and 29 of the Federal Aviation Regulations (FAR). Included in the draft material is information regarding the evaluation of emergency medical service designs. In addition, the Rotorcraft Directorate is sponsoring a 1-day public meeting to discuss the draft changes.

DATE: Comments must identify Draft Change 2, AC 27–1, or Draft Change 1, AC 29–2A, and must be received by February 24, 1989.

The public meeting will begin at 9 a.m. on January 26, 1989.

ADDRESSES: The public meeting will be held in the Training Room (Room 167), Building 3B, FAA, 4400 Blue Mound Road, Fort Worth, Texas.

Comments may be mailed to FAA, Rotorcraft Standards Staff, ASW–110, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0110.

FOR FURTHER INFORMATION CONTACT: Ms. Debra H. Myers, Rotorcraft Standards Staff, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0110, telephone (817) 624–5118.

SUPPLEMENTARY INFORMATION: Copies of the draft changes have been mailed to all known affected industry and government entities, both foreign and domestic. Any interested person not

receiving these draft changes may obtain a copy by contacting the person named under "FOR FURTHER INFORMATION CONTACT."

Interested persons are invited to submit comments on these draft changes. Comments received may be inspected at the office of the Rotorcraft Standards Staff, FAA, Building 3B, Room 143N, 4400 Blue Mound Road, Fort Worth, Texas.

Issued in Fort Worth, Texas, on October 26, 1988.

L.B. Andriesen,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 88-26532 Filed 11-16-88; 8:45 am]

BILLING CODE 4910-13-M

Intention To Prepare an Environmental Impact Statement and To Hold an Environmental Scoping Meeting for Airport Expansion, Minneapolis-St. Paul International Airport, Minneapolis, MN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice to Hold a Public Scoping Meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for 2750' extension of Runway 4/22 to the southwest at Minneapolis-St. Paul International Airport. To ensure that all significant issues related to the proposed action are identified, a public meeting will be held.

FOR FURTHER INFORMATION CONTACT: Glen Orcutt, Airport Planner, Federal Aviation Administration, Minneapolis Airports Office, 6301 34th Avenue South, Room 111, Minneapolis, Minnesota 55450. Telephone number (612) 725-4221.

SUPPLEMENTARY INFORMATION: The FAA, in cooperation with the Minnesota Department of Transportation and the Metropolitan Airports Commission will prepare an EIS for development at Minneapolis-St. Paul International Airport. The development involves the extension of the southwest end of Runway 4/22 by 2750'. The landing thresholds for both runway ends would be displaced 2750' from the ends of pavement. Construction of new taxiways and lighting system changes related to the extension and threshold displacements are also part of the proposed project. Flight track modification will also be established as part of the project.

Comments and suggestions are invited from Federal, State, local agencies, and other interested parties to ensure the full range of issues related to this proposed project are addressed and all significant issues identified. Copies of material to be evaluated can be obtained by contacting the FAA informational contact listed above. Comments and suggestions may be mailed to the same address.

Public Scoping Meeting

In order to provide public input, a scoping meeting for Federal, State and local agencies and other interested parties will be held Thursday, December 15, 1988, at 1 pm at the Richfield City Hall Council Chambers, 6700 Portland Avenue, Richfield, Minnesota. Information about the meeting may be obtained by contacting the FAA.

Issued in Des Plaines, Illinois, on November 3, 1988.

Stanley Rivers,

Manager, Airports Division, FAA, Great Lakes Region.

[FR Doc. 88-26523 Filed 11-15-88; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 25727]

Public Meetings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meetings.

SUMMARY: This notice announces a series of meetings to solicit information from the public concerning the need and utilization of Special Use Airspace (SUA). The United States Congress has directed that the Secretaries of Transportation and Defense, in consultation with aviation users, jointly conduct a national review of the need and utilization of SUA with a view to determining its impact on civil aviation operations and on the quality of the environment. In compliance with this request and consistent with the principles of consultation, the FAA and DOD now seek factual information from the public to determine what, if any, impact SUA has on civil aviation operations and the quality of the environment. The objective of these meetings is only to obtain public input on these topics for the required report to Congress, which is due June 30, 1989.

DATES: Comments must be received on or before February 11, 1989.

The public meetings will be held on November 30, 1988, in Dayton, OH; December 1, 1988, in Washington, DC; December 7, 1988, in Fort Worth, TX; December 12, 1988, in Reno, NV; December 13, 1988, in Las Vegas, NV; December 14, 1988, in Salt Lake City, UT; December 15, 1988, in Ontario, CA; January 10, 1989, in Fayetteville, NC; and January 11, 1989, in Pensacola, FL.

ADDRESSES: Send or deliver comments in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Docket [ ], 800 Independence Avenue SW., Washington, DC 20591.

Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

The public meeting locations are as follows:

Dayton, OH

Date: November 30, 1988
Time: 7:00 p.m.
Location: Sinclair Community College, 444 West Third Street, Room 4011, Dayton, OH

Fayetteville, NC

Date: January 10, 1989
Time: 7:00 p.m.
Location: Fayetteville Technical Community College Auditorium, 2201 Hull Road, Fayetteville, NC

Fort Worth, TX

Date: December 7, 1988
Time: 7:00 p.m.
Location: Holiday Inn North, 2540 Meacham Boulevard (I35 at Meacham Boulevard), Fort Worth, TX

Las Vegas, NV

Date: December 13, 1988
Time: 7:00 p.m.
Location: Gold Coast Hotel, 4000 West Flamingo Road, Las Vegas, NV

Ontario, CA

Date: December 15, 1988
Time: 7:00 p.m.
Location: Chaffey Union High School, Merton E. Hill Auditorium, 211 West 5th Street, Ontario, CA

Pensacola, FL

Date: January 11, 1989
Time: 7:00 p.m.
Location: Pensacola Junior College, Fine Arts Auditorium, 1000 College Boulevard, Room 8, Pensacola, FL

Reno, NV

Date: December 12, 1988
Time: 7:00 p.m.
Location: Reno Convention Center, 4590 South Virginia Street, Reno, NV

Salt Lake City, UT

Date: December 14, 1988
Time: 7:00 p.m.
Location: Utah Air National Guard Theater, 765 North 2200 West, Salt Lake City, UT

Washington, DC

Date: December 1, 1988
Time: 7:00 p.m.
Location: Federal Aviation Administration, Third Floor Auditorium, 800 Independence Avenue SW., Washington, DC

FOR FURTHER INFORMATION CONTACT: For advance requests to be heard at the

meetings and for questions regarding the logistics of the meetings, contact Mr. Robert G. Burns or Mr. Paul Gallant, Airspace Branch (ATO–240), Room 415, Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–3075 or Lt. Col. Charles R. Linn, DOD/USAF, HQ USAF/XOORF, Washington, DC 20330–5054; telephone (202) 697–4399.

SUPPLEMENTARY INFORMATION:

Background

The Airport and Airway Safety and Capacity Expansion Act of 1987, Pub. L. 100–223, directs the Departments of Transportation and Defense to jointly conduct a special use airspace (SUA) review and provide a report of this review to Congress. Specifically:

The Secretary (of Transportation) and the Secretary of Defense, in consultation with aviation users, shall jointly conduct a national review of the need and utilization of special use airspace with a view to determining its impact on civil aviation operations and on the quality of the environment.

Meeting Procedures

(a) The meetings will be informal in nature and will be conducted jointly by a representative of the Administrator of the FAA in behalf of the Secretary of Transportation and representatives of the Secretary of Defense. Each participant will be given an opportunity to make a presentation.

(b) The meetings will be open to all persons on a space-available basis. All efforts will be made to provide a meeting site with sufficient seating capacity for the expected participation. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the panel will be asked to sign in and estimate the amount of time needed for such presentation. This will permit the panel to allocate an appropriate amount of time for each presenter. The panel may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel. The meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(d) Any person who wishes to present a position paper to the panel pertinent to the topic of special use airspace for consideration with public presentation may do so.

(e) Persons wishing to hand out pertinent position papers to the attendees should present three copies to the representatives from the FAA and DOD. The FAA and DOD representatives will retain one copy each, with the third being placed in the meeting files. There should be an adequate number of copies of each handout available for all attendees.

(f) The meetings will not be formally recorded. However, informal tape recordings will be made of presentations to ensure that each respondent's comments are accurately noted. A summary of the comments at each meeting will be made and used in the final report.

Materials relating to this subject for presentation at the meetings will be accepted at the individual meetings. Every reasonable effort will be made to hear every request for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the docket up to 30 days after the close of the last meeting.

Agenda

Opening Remarks and Discussion of Meeting Procedures.

Public Presentations.

Closing Comments.

Issued in Washington, DC, on November 11, 1988.

John P. Cuprisin,

Acting Director, Air Traffic Operations Service, Federal Aviation Administration.

Charles R. Linn, Lt. Col.,

USAF, Acting Chairman, Airspace Subgroup, DOD Advisory Committee on Federal Aviation.

[FR Doc. 88–26542 Filed 11–16–88; 8:45 am]

BILLING CODE 4910–13–M

Flight Standards District Office at San Diego, CA; Relocation

Notice is hereby given that on or about November 14, 1988, the Flight Standards District Office at 8665 Gibbs Drive, Suite 110, San Diego, California 92123 will be relocating to 8525 Gibbs Drive, Suite 120, San Diego, California 92123. Services to the general public will continue to be provided by this office without interruption. This information will be reflected in the FAA Organization Statement the next time it is reissued. (Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Hawthorne, CA, on November 4, 1988.

Jerold M. Chavkin,

Regional Administrator, Western-Pacific Region.

[FR Doc. 88–26541 Filed 11–16–88; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: November 10, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0119.

Form Number: None.

Type of Review: Extension.

Title: Trade Name Recordation.

Description: Trade name owners who choose to record their trade names with Customs for import protection must establish that they have the exclusive right to use that trade name, pay the required fee, and provide other information that will aid Customs officers in their enforcement effort, such as a description of the merchandise with which the trade name is associated.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: On occasion.

Estimated Total Recordkeeping/ Reporting Burden: 80 hours.

Clearance Officer: B. J. Simpson, (202) 566–7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management

and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88-26574 Filed 11-16-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 10, 1988.

The Department of Treasury has submitted the following public information collection requirements(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub L. 96-511. Copies of the submission(s) may be obtainted by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0013.
Form Number: 56.
Type of Review: Revision.
Title: Notice Concerning Fiduciary Relationship.
Description: Form is used to inform IRS that a person is acting for another person in a fiduciary capacity so that IRS may mail to the fiduciary tax notices concerning the person for whom the fiduciary is acting. The data is used to ensure that the fiduciary relationship is established or terminated and to mail or discontinue mailing designated tax notices to the fiduciary.
Respondents: Individuals or households, Businesses or other for profit, Small businesses or organizations.
Estimated Number of Respondents: 173,944.
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping—8 hours 37 minutes.
Learning about the law or the form—1 hour 32 minutes.
Preparing the form—3 hours 36 minutes.
Copying, assembling, and sending the form to IRS—32 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/ Reporting Burden: 2,483,920 hours.
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88-26575 Filed 11-16-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 10, 1988.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0949.
Form Number: 2587.
Type of Review: Extension.
Title: Application for Special Enrollment Examination.
Description: This information relates to the determination of the eligibility of individuals seeking enrollment status to practice before the Internal Revenue Service.
Respondents: Individuals or Households.
Estimated Number of Respondents: 8,000.
Estimated Burden Hours Per Response: 6 minutes.
Frequency of Response: One time filing.
Estimated Total Reporting Burden: 800 hours.
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88-26576 Filed 11-16-88; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 29-88]

Treasury Notes, Series D-1998

Washington, November 10, 1988.

The Secretary announced on November 9, 1988, that the interest rate on the notes designated Series D-1998, described in Department Circular—Public Debt Series—No. 29-88 dated November 3, 1988, will be 8⅞ percent. Interest on the notes will be payable at the rate of 8⅞ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 88-26592 Filed 11-16-88; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 28-88]

Treasury Notes, Series U-1991

Washington, November 9, 1988.

The Secretary announced on November 8, 1988, that the interest rate on the notes designated Series U-1991, described in Department Circular—Public Debt Series—No. 28-88 dated November 3, 1988, will be 8½ percent. Interest on the notes will be payable at the rate of 8½ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 88-26593 Filed 11-16-88; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 222
Thursday, November 17, 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).

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Board Meeting

TIME AND DATE: 4:00 p.m.—Tuesday, November 22, 1988 (Rescheduled).

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW.-Suite 800, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Bonnie Nance Frazier, Director of Communications, 376–3224.

AGENDA:

1. Approval of Minutes, August 4, 1988.
2. Executive Director's Activity Report.
3. Treasurer's Report.
4. Appointment of Assistant Secretary.
5. Establishment of CY 1989 Board Meeting Dates.

Carol J. McCabe,

Secretary.

[FR Doc. 88–26650 Filed 11–15–88; 10:49 am]

BILLING CODE 7570-01-M

Corrections

Federal Register
Vol. 53, No. 222
Thursday, November 17, 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 LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Parts 516 and 530

Employment of Homeowners in Certain Industries; Records To Be Kept by Employers

Correction

In rule document 88-26041 beginning on page 45706 in the issue of Thursday, November 10, 1988, make the following corrections:

1. On page 45707, in the second column, in the first complete paragraph, in the sixth line, remove "the".

2. On page 45708, in the first column, in the 21st line, "certificate" should read "certification".

3. On page 45709, in the third column, in the first complete paragraph, in the eighth line, "assurance" should read "assurances".

4. On page 45711, in the first column, in the second complete paragraph, in the 14th line, "administrator" should read "Administrator".

5. On the same page, in the second column, in the first line, "suites" should read "suits".

6. On the same page, in the same column, in the first complete paragraph, in the 22nd line, "administrator" should read "Administrator".

7. On the same page, in the same column, in the second complete paragraph, in the first line, "administrator's" should read "Administrator's".

8. On page 45713, in the second column, in the 16th line from the bottom of the column, "difference" was misspelled.

9. On page 45714, in the first column, in the first complete paragraph, in the 3rd line, "employers" should read "employees"; and in the 13th line, insert "the" after "least".

10. On the same page, in the second column, in the first complete paragraph, in the second line, "proposed" should read "proposal".

11. On the same page, in the same column, in fourth complete paragraph, in the fourth line, "homeworker" should read "homeworkers"; and in the 10th line "homeworkers" should read "homeworker".

12. On page 45718, in the first column, in the sixth line, "provided" should read "provide".

13. On the same page, in the same column, in the first complete paragraph, in the 15th line, remove "foot".

14. On page 45721, in the first column, in the second complete paragraph, in the eighth line, "certificate" should read "certificates".

15. On the same page, in the second column, in the fourth line, "homeworker" should read "homeworkers".

PART 516—[AMENDED]

16. On page 45726, in the second column, in the authority citation for Part 516, after "211" add ". Section".

BILLING CODE 1505-01-D

federal register

Thursday
November 17, 1988

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Administration

48 CFR Parts 2401 et al.

Acquisition Regulation; Solicitation Provisions, Contract Clauses, Forms, and Other Miscellaneous Amendments; Final Rule and Provisional Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

48 CFR Parts 2401, 2402, 2406, 2409, 2412, 2413, 2414, 2415, 2416, 2417, 2419, 2422, 2424, 2426, 2427, 2432, 2434, 2437, 2442, 2446, 2451, 2452, and 2453

[Docket No. R-88-1351; FR2131]

Acquisition Regulation; Solicitation Provisions, Contract Clauses, Forms, and Other Miscellaneous Amendments

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Final rule and provisional rule with request for comments.

SUMMARY: This final rule adopts, without substantive change, the proposed HUDAR rule of December 8, 1987, that supplemented the Federal Acquisition Regulation (FAR) by adding solicitation provisions, contract clauses, and HUD forms to the HUDAR. In addition, the final rule amends the proposed rule by removing some clauses due to subsequent issuance of FAR coverage; reorganizing the existing text in different sections; and in making minor technical corrections. Comment is being requested on seven provisional clauses which are being considered for Governmentwide application by the FAR councils.

DATES: *Effective Date:* Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule and provisional rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the final rule and provisional rules publication. HUD will publish a notice of the effective date of this final rule and provisional rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this final rule and provisional rule will *not* become effective until HUD's separate notice is published announcing a specific effective date.

The following sections are provisional: 2409.508, 2416.504, 2437.110, 2452.209-71, 2452.209-72, 2452.216-75, 2452.237-71, 2452.237-72, 2452.237-74 and 2452.237-75.

Comments: Comments must be submitted on or before January 17, 1989.

ADDRESS: Send comments to FAR Secretariat, Ms. Margaret Willis, Room 4041, GS Building, Washington, DC. 20405, (202) 523-4755.

FOR FURTHER INFORMATION CONTACT: Gladys Gines, Deputy Director, Policy and Evaluation Division, Office of Procurement and Contracts, Room 5260, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, DC, telephone (202) 755-5294. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

I. Background

The uniform regulation for the procurement of supplies and services by Federal departments and agencies, the Federal Acquisition Regulation (FAR), was promulgated on September 19, 1983 (48 CFR 42102). The FAR was codified in Title 48, Chapter 1 of the Code of Federal Regulations. HUD promulgated its regulation to implement the FAR on March 1, 1984 (49 FR 7696). The HUD Acquisition Regulation (HUDAR) was revised in an interim rule published in the **Federal Register** of November 8, 1985 (50 FR 46572) to implement the Competition in Contracting Act of 1984.

II. Proposed Rule for the Addition of Parts 2452 and 2453

The proposed HUDAR rule of December 8, 1987, supplemented the FAR by adding solicitation provisions, contract clauses, and HUD forms to the HUDAR. In addition, the proposed rule implemented the Prompt Payment Act (31 U.S.C. 3901-3906) and OMB Circular A-109, "Major Systems Acquisition." Because of the impact of the rule on the public, the Department published these HUDAR changes as proposed rulemaking and provided for a public comment period of 60 days. No public comments were received. However, HUD has determined that several revisions to the proposed rule are necessary in light of recent changes to the FAR and to reflect the Department's current procurement procedures.

III. Revisions to the Proposed Rule

A. Ratification of Unauthorized Commitments

Federal Acquisition Circular (FAC) 84-33 (53 FR 3688), dated February 8, 1988, amended the FAR by adding section 1.602-3, Ratification of Unauthorized Commitments. HUDAR 2401.602-70 is therefore removed and a new 2401.602-3 is added to provide necessary internal procedures. In addition, a paragraph (c)(5) is added to establish that the Contracting Officer or Head of the Contracting Activity authorized payments and, at their discretion, may seek legal concurrence when there is a concern regarding the propriety of the funding source, appropriateness of the expense, or a legal issue is involved.

B. Prompt Payment Act

FAC 84-33 also implemented the Prompt Payment Act (31 U.S.C. 3901-3906) and OMB Circular A-125, "Prompt Payment." Proposed HUDAR coverage at 2432.900-2432.903 is therefore removed. HUDAR clauses at 2432.232-70, "Payment (Fixed-Price)," and 2432.232-71, "Payment (Cost-Reimbursement)," have been revised and renamed "Payment Schedule and Invoice Submission (Fixed-Price)" and "Voucher Submission (Cost-Reimbursement)," respectively. All duplicative language as reflected in FAR 52.232-25 has been removed. The clauses as now written merely contain instructions on where invoices/vouchers are to be submitted. HUDAR 2452.232-72, "Method of Payment," has been removed in its entirety in light of the FAR coverage.

C. Addition and Modification of Clauses

A prescription at 2422.1408(c) and the related clause at 2452.222-70, "Accessibility of Meetings, Conferences, and Seminars to Persons with Disabilities," are added to require that contractors ensure that any meetings, conferences, and seminars conducted under the contract are accessible to disabled persons, per Section 504 of the Rehabilitation Act of 1973, as amended.

HUDAR 2452.237-75, "Clearance of Personnel," has been amended to add the requirement that contractor staff working on-site must have temporary identification/building passes. This reflects current Departmental procedure.

IV. Other HUDAR Revisions

The Office of Housing reorganized in 1986. All references to Chief, Reconditioning and Contracting Branch, Office of Multifamily Housing Management, are therefore revised to Chief, Management Branch, Office of Multifamily Housing Management, to reflect the reorganization.

The definition of "Head of Contracting Activity" at 2402.101 has been revised to add the Regional Director, Office of Housing, for decentralized procurement for acquired properties in co-located Regional/Field Offices.

HUDAR 2419.503 pertaining to small business class set-asides for construction has been revised to state that this set-aside only pertains to contracts awarded under the Acquired Property Program. When the HUDAR was first published, only the Acquired Property Program awarded construction contracts. However, since that time,

HUD has engaged in other construction contracts pertaining to HUD's management and operation of its Headquarters building. Therefore, the clarification is required to reflect the original intent.

Part 2470, "Special Programs Affecting Acquisition," has been changed to Part 2426, "Other Socioeconomic Programs." This change was required to implement FAC 84-32 (53 FR 660), dated January 11, 1988, which created FAR Part 26. The text, however, has not been revised.

The prescription at 2427.305-2 for use of the Form HUD 770, "Report of Inventions and Subcontracts," has been modified to state that the Contracting Officer need only send the form if the work conducted under the contract was such that patents or inventions may have been developed.

HUDAR 2432.410 has been removed. This passage stated that the Determination and Findings required by FAR 32.402(c)(1)(iii) regarding advance payments could be issued by the Head of the Contracting Activity (HCA) only if a specific delegation of authority has been issued. However, proposed 2432.402 states that the Director of the Office of Procurement and Contracts (OPC) makes these determinations. Upon reviewing delegations of authority, it was discovered that the Director, OPC, is the only HCA with the specific delegated authority. Therefore, 2432.410 is unnecessary and is hereby removed.

HUDAR 2434.001, which establishes the Department's threshold for a "major system" to $15,000,000, has been revised to state that the Senior Procurement Executive may waive the requirements of OMB Circular A-109 if an acquisition exceeds the dollar threshold but does not otherwise meet the definition of a major system. In addition, a section 2434.003 has been added to designate the Senior Procurement Executive as the individual responsible for implementation of A-109. This designation is consistent with internal Departmental directives.

V. Provisional Portion of Regulation

The following clauses/provisions have been submitted to the FAR Councils for consideration for FAR coverage:

Clause/Provision	HUD cite
Organizational Conflict of Interest Certification	2452.209-71
Organizational Conflict of Interest Clause	2452.209-72
Unpriced Task Orders	2452.216-75
Reproduction of Reports	2452.237-71
Coordination of Data Collection Activities	2452.237-72
Technical Direction	2452.237-74
Clearance of Personnel	2452.237-75

These provisions/clauses are therefore designated as "provisional". Should the FAR Councils adopt a rule based on these provisions/clauses, HUD will rescind the provisional rule in favor of the FAR coverage.

VI. Miscellaneous

This rule would not constitute a "major rule" as the term is defined in section 1(b) of Executive Order 12291. This rule does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local agencies or geographic regions; or (3) have a significant 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. The revisions in this rule would involve modifications of various Departmental procedures for HUD procurement activities. These modifications primarily involve the codification of procedures involving certain solicitation provisions, contract clauses, and forms that have been implemented by HUD for many years.

In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities because this rule merely codifies current Departmental procedures.

The information collection burdens associated with these procurement procedures have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 and have been assigned OMB control numbers 2502-0278, 2535-0306, 2535-0085, and 2535-0091.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule is listed as item 1050 in the Department's Semiannual Agenda of Regulations published on October 24, 1988 (53 FR 41974, 42008) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 48 CFR Parts 2401, 2402, 2406, 2409, 2412, 2413, 2414, 2415, 2416, 2417, 2419, 2422, 2424, 2426, 2427, 2432, 2434, 2437, 2442, 2446, 2451, 2452, and 2453

Government procurement.

Accordingly, Title 48, Chapter 24 of the Code of Federal Regulations is proposed to be amended as follows:

SUBCHAPTER A—GENERAL

PART 2401—FEDERAL ACQUISITION REGULATION SYSTEM

1. The authority citation for Part 2401 is revised to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2401.403 [Amended]

2. Section 2401.403 is corrected by revising the parenthetical statement "(see 2401.601-1)" to read "(see 2401.601-70)."

3. The Table of Contents for Subpart 2401.6 is revised to read as follows:

Subpart 2401.6—Contracting Authority and Responsibilities

2401.602-70 [Removed]

4. HUDAR 2401.602-70 is removed.

5. A new HUDAR 2401.602-3 is added, to read as follows:

2401.602-3 Ratification of unauthorized commitments.

(b)(4) A request for ratification shall be sent to the Contracting Officer through the Head of the Contracting Activity (HCA). The request will include an explanation as to the need for the service, the reason why normal procurement procedures were not

followed, to what extent price competition was received or the price otherwise justified, and, corrective management actions to avoid ratifications in the future. If the justification is adequate, the ratification will be signed by the Contracting Officer and approved by the HCA. When circumstances warrant, the HCA may establish more stringent ratification procedures.

(c)(5) If the amount involved is less than $1,000, the Contracting Officer shall recommend payment. If the amount involved exceeds $1,000, the HCA shall recommend payment. In either case, legal concurrence may be requested if there is concern regarding the propriety of the funding source, appropriateness of the expense, or when a legal issue is involved.

PART 2402—DEFINITIONS OF WORDS AND TERMS

6. In section 2402.101 the definition of "Head of Contracting Activity" is revised to read as follows:

2402.101 Definitions.

* * * * *

"Head of Contracting Activity" is defined in accordance with the FAR. The following HUD officials are designated HCAs:

(1) Director, Office of Procurement and Contracts, for HUD Headquarters procurement and the Consolidated Supply Program;

(2) The Regional Directors, Offices of Administration for Regional Office procurements;

(3) The Chief, Management Branch, Office of Multifamily Housing Management, for Headquarters acquired properties operations;

(4) The Regional Director, Office of Housing, for decentralized procurement for acquired properties in co-located Regional/Field Offices;

(5) The Managers, HUD Field Offices, for decentralized procurement in Field Offices for acquired properties; and

(6) The President, Government National Mortgage Association (GNMA), for procurements related to GNMA's programmatic functions.

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SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 2406—COMPETITION REQUIREMENTS

7. The authority citation for Part 2406 continues to read as follows:

Authority: Competition in Contracting Act of 1984 (41 U.S.C. 253); sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

2406.304-70 [Amended]

8. The phrase *"Chief, Reconditioning and Contracting Branch"* in HUDAR 2406.304-70(a)(1) is corrected to read *"Chief, Management Branch."*

PART 2409—CONTRACTOR QUALIFICATIONS

9. The authority citation for Part 2409 is revised to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

10. The table of contents is amended by adding sections 2409.508, 2409.508-1 and 2409.508-2 to read as follows:

Subpart 2409.5—Organizational Conflicts of Interest

Sec.

* * * * *

2409.508 Solicitation provisions and contract clause.
2409.508-1 Solicitation provisions.
2409.508-2 Contract clause.

Subpart 2409.5—Organizational Conflicts of Interest

11. Section 2409.504 is amended by revising paragraph (a)(5), removing paragraph (b), redesignating paragraph (c) as (b) and revising the first sentence of newly redesignated paragraph (b)(1), redesignating paragraphs (d) and (e) as (c) and (d) and revising newly redesignated paragraph (d) to read as follows:

2409.504 Contracting Officer responsibilities.

* * * * *

(a) * * *

(5) Refusal to provide the disclosure or representation and any additional information as required, or the willful nondisclosure or misrepresentation of any relevant interest shall disqualify the offeror or contractor for award or provide the rationale for post-award default action if the exercise of due diligence would have disclosed an apparent conflict. This provision applies equally to post-award disclosure requirements contained in the clause required by HUDAR 2409.508-2.

* * * * *

(b) * * *

(1) The disclosure or certification required by HUDAR 2409.508-1 and 2409.508-2 is designed to alert the Contracting Officer to situations or relationships which may constitute either present or anticipated organizational conflicts of interest with respect to a particular offeror or contractor.

* * * * *

(d) Action in Lieu of Termination. If the Contracting Officer determines that it would not be in the best interest of the Government to terminate a contract as provided in the clause cited at HUDAR 2409.508-2, the Contracting Officer shall take every reasonable action to eliminate, or otherwise neutralize the organizational conflict of interest.

12. Sections 2409.508, 2409.508-1, and 2409.508-2 are added to read as follows:

2409.508 Solicitation provisions and contract clause.

2409.508-1 Solicitation provisions.

The Contracting Officer shall insert the provisions at 2452.209-70, Organizational Conflicts of Interest Notification, and 2452.209-71, Organizational Conflicts of Interest Certification, in all solicitations over the small purchase limitation.

2409.508-2 Contract clause.

The Contracting Officer shall insert the clause at 2452.209-72, Organizational Conflicts of Interest, in all contracts.

13. Part 2412 is added to read as follows:

PART 2412—CONTRACT DELIVERY OR PERFORMANCE

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2412.1—Delivery or Performance Schedules

2412.104 Contract clause.

(a) The Contracting Officer may insert the clause at 2452.212-70, Contract Period, in all term form cost-reimbursement and fixed-price service solicitations and contracts.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 2413—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

14. The authority citation for Part 2413 is revised to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

15. The table of contents for Part 2413 is amended by adding Subparts 2413.1 and 2413.5 to read as follows:

Subpart 2413.1—General

Sec.
2413.107 Solicitation and evaluation of quotations.

Subpart 2413.5—Purchase Orders

2413.505 Purchase order and related forms.
2413.505–2 Agency order forms in lieu of Optional Forms 347 and 348.

16. Subpart 2413.1, consisting of section 2413.107, is added to read as follows:

Subpart 2413.1—General

2413.107 Solicitation and evaluation of quotations.

(a)(4) Contracting Officers may use HUD Form 24007, Purchase/Delivery Order Data File, to record all relevant data pertaining to a small purchase, including recording written and oral quotations received and documenting orders against GSA contracts.

17. Subpart 2413.5, consisting of sections 2413.505 and 2413.505–2, is added to read as follows:

Subpart 2413.5—Purchase Orders

2413.505 Purchase order and related forms.

2413.505–2 Agency order forms in lieu of Optional Forms 347 and 348.

(a) Contracting Officers may use the HUD Form 24001, Order for Supplies or Services, in lieu of Optional Form 347 for individual purchases not exceeding the small purchase limit.

(b) For small purchases under the Acquired Property Program, Contracting Officers shall use HUD Form 2542, Purchase Order and Payment Authorization. This form shall not be used for construction purchases expected to exceed $2,000. It shall not be used for purchases above the small purchase limit.

PART 2414—SEALED BIDDING

18. The authority citation for Part 2414 continues to read as follows:

Authority: Competition in Contracting Act of 1984 (41 U.S.C. 253); sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2414.406–3 [Amended]

19. In HUDAR 2414.406–3(e)(3), the phrase *"Chief, Reconditioning and Contracting Branch"* is corrected to read *"Chief, Management Branch."*

PART 2415—CONTRACTING BY NEGOTIATION

20. The authority citation for Part 2415 continues to read as follows:

Authority: Competition in Contracting Act of 1984 (41 U.S.C. 253); sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

21. Section 2415.407 is added to read as follows:

2415.407 Solicitation provisions.

(a) The Contracting Officer shall insert the provision at 2452.215–70, Proposal Content and Outline, in all negotiated solicitations over the small purchase limitation.

(b) The Contracting Officer shall insert the provisions at 2452.215–71, DUNS Contractor Establishment Number, in all solicitations that exceed the small purchase limitation.

22. Sections 2415.411 and 2415.411–70 are added to read as follows:

2415.411 Receipt of proposals and quotations.

2415.411–70 Recording of proposals.

HUD Form 4056, Abstract of Proposals, may be used to record the names and addresses of offerors whose proposals are received before the stated deadline. The offerors total price, including any estimated cost and fixed fee are to be recorded after the deadline at the time the proposals are opened.

PART 2416—TYPES OF CONTRACTS

23. The authority citation for Part 2416 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

24. Section 2416.405 is revised to read as follows:

2416.405 Contract clauses.

(e)(1) The Contracting Officer shall insert the clauses at 2452.216–70, Estimated Cost, Base Fee, and Award Fee; 2452.216–71, Payment of Base and Award Fee; 2452.216–72, Determination of Award Fee Earned; 2452.216–73, Performance Evaluation Plan; and 2452.216–74, Distribution of Award Fee, in all award fee contracts. The Contracting Officer may modify the clauses to meet individual situations and any clause or specific requirement therein may be deleted when it is not applicable to a given contract.

25. Section 2416.504 is added to read as follows:

2416.504 Indefinite-quantity contracts.

(e) The Contracting Officer shall insert the clause at 2452.216–75, Unpriced Task Orders, in all indefinite-quantity contracts.

26. Part 2417 is added to read as follows:

PART 2417—SPECIAL CONTRACTING METHODS

Authority: Economy Act (31 U.S.C. 1535); sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2417.5—Interagency Acquisitions Under the Economy Act

2417.504 Ordering procedures.

(b) The Contracting Officer shall use HUD Form 730, Award/Modification of Interagency Agreement, when placing or modifying an order for supplies or services from another Government agency.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 2419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

27. The authority citation for Part 2419 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)) sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

28. The heading and first sentence in HUDAR 2419.503(a) are revised to read as follows:

2419.503 [Amended]

(a) *Class set-aside for construction under the Acquired Property Program.* A class set-aside is hereby made for each proposed procurement for construction under the Acquired Property Program with an estimated cost of less than $1,000,000.

* * * * *

29. A new Part 2422 is added as follows:

PART 2422—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2422.14—Employment of the Handicapped

2422.1408 Contract clause.

(c) The Contracting Officer shall insert the clause at 2452.222–70, Accessibility of Meetings, Conferences, and Seminars to Persons with Disabilities, in all solicitations and contracts.

PART 2424—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

30. The authority citation for Part 2424 is revised to read as follows:

Authority: Freedom of Information Act (5 U.S.C. 552); Privacy Act of 1974 (5 U.S.C. 552a); Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

31. Section 2424.202–70 is added to read as follows:

2424.202–70 Solicitation provision.

The Contracting Officer shall insert the provisions at 2452.224–70, Freedom of Information Act Notification, in all negotiated solicitations exceeding the small purchase limitation.

32. A new Part 2426 is added to read as follows:

PART 2426—OTHER SOCIOECONOMIC PROGRAMS

Subpart 2426.1—Minority Business Enterprises

2426.101 Policy.
2426.102 Responsibility.
2426.103 Solicitation provision.

Subpart 2426.2—Historically Black Colleagues and Universities

2426.201 Policy.

Subpart 2426.1—Minority Business Enterprises

2426.101 Policy.

It is the policy of the Department to foster and promote Minority Business Enterprise (MBE) participation in its procurement program, to the extent permitted by law and consistent with its primary mission. A "minority business enterprise" is a business which is at least 51 percent owned by one or more minority group members; or, in case of a publicly-owned business, one in which at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. For this purpose, minority group members are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans and Asian Indian Americans, and Hasidic Jewish Americans.

2426.102 Responsibility.

The Director of the Office of Small and Disadvantaged Business Utilization (OSDBU) develops Departmental MBE plans and policies in accordance with Executive Orders 11625 and 12432 and by directive from the Secretary. He or she provides advice and guidance to the Secretary and Primary Organization Heads on MBE functions, reviews and makes recommendations to the Secretary on MBE annual plans and goals, monitors and evaluates the Department's MBE program, and reports on MBE program performance to the Department of Commerce.

2426.103 Solicitation provision.

All contracting activities shall request all interested contractors, bidders, or offerors (including those responding to requests for quotations) to complete the certification at 2452.226–70, Certification of Status as a Minority Business Enterprise. Completion of this certification is voluntary and is not a condition of eligibility for contract award.

Subpart 2426.2—Historically Black Colleges and Universities

2426.201 Policy.

Executive Order 12320, September 15, 1981 ([46 FR 46107), 3 CFR 1981 Comp., P.176), directed the Department to establish annual plans to increase the ability of Historically Black Colleges and Universities to participate in Federally sponsored programs including contracts, grants and cooperative agreements. OSDBU is responsible for developing the annual plans regarding the participation of Historically Black Colleges and Universities in Departmental programs. OSDBU is responsible also for ensuring that the reporting requirements are fulfilled.

33. Part 2427 is added to read as follows:

PART 2427—PATENTS, DATA, AND COPYRIGHTS

Subpart 2427.3—Patent Rights Under Government Contracts

Sec.
2427.305 Administration of patent rights clauses.
2427.305–2 Follow-up by contractor.

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2427.3—Patent Rights Under Government Contracts

2427.305 Administration of patent rights clauses.

2427.305–2 Follow-up by contractor.

(b) Contractor reports. Contractors shall complete and submit to the Contracting Officer HUD Form 770, Report of Inventions and Subcontracts, upon receipt of said form. The Contracting Officer shall send the form to those contractors whose contract work may have required the development of inventions upon physical completion of the contract.

Subchapter E—General Contracting Requirements

34–35. Part 2432 is revised to read as follows:

PART 2432—CONTRACT FINANCING

Subpart 2432.4—Advance Payments

Sec.
2432.402 General.

Subpart 2432.9—Prompt Payment

2432.908 Contract clauses.

Authority: Prompt Payment Act (31 U.S.C. 3901–3906); sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2432.4—Advance Payments.

2432.402 General.

(e)(1) The Determination and Findings required by FAR 32.402(c)(1)(iii) shall be made by the Director, Office of Procurement and Contracts.

(2) Each advance payment situation shall be coordinated with the Office of Finance and Accounting before authorization may be given.

Subparty 2432.9—Prompt Payment

2432.908 Contract clauses.

(a) The Contracting Officer shall insert the clause at 2452.232–70, Payment Schedule and Invoice Submission (Fixed-Price), in all fixed-price solicitations and contracts. The clause with its Alternate I shall be used for solicitations and contracts issued by the Regional Contracting Officers.

(b) The Contracting Officer shall insert the clause at 2452.232–71, Voucher Submission (Cost-Reimbursement), in all cost-reimbursement solicitations and contracts when vouchers are to be sent directly to the paying office. The clause with its Alternate I shall be used for solicitations and contracts issued by the Regional Contracting Officers.

36. Part 2434 is added to read as follows:

PART 2434—MAJOR SYSTEM ACQUISITIONS

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2434.001 Definition.

(b) The Department's dollar threshold for a "major system", under OMB Circular A–109, "Major System Acquisitions", is $15,000,000. The Senior Procurement Executive may, however, designate any acquisition as a "major system acquisition" if its priority to the Department's overall mission warrants such emphasis or may waive the requirements of the Circular if an acquisition exceeds $15,000,000, but does not otherwise meet the definition of a major system.

2434.003 Responsibilities.

(a) The Senior Procurement Executive is responsible for establishing written procedures for implementation of A–109. Such procedures have been set out in internal Departmental directives.

Subchapter F—Special Categories of Contracting

PART 2437—SERVICE CONTRACTING

37. The table of contents is amended by adding the following subpart:

Subpart 2437.1—Service Contracts—General

Sec.
2437.101 Definitions.
2437.110 Solicitation provisions and contract clauses.

38. The authority citation for Part 2437 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

39. Subpart 2437.1, consisting of sections 2437.101 and 2437.110, is added to read as follows:

Subpart 2437.1—Service Contracts—General

2437.101 Definitions.

"Government Technical Representative" (GTR) means that individual responsible for the technical direction, oversight, and evaluation of the Contractor's performance.

2437.110 Solicitation provisions and contract clauses.

(a) The Contracting Officer shall insert the clause at 2452.237–70, Key Personnel, in solicitations and contracts when it is necessary for contract performance to identify Contractor Key personnel.

(b) The Contracting Officer shall insert the clause at 2452.237–71, Reproduction of Reports, in solicitations and contracts where the Contractor is required to produce, as an end product, publications or other written materials.

(c) The Contracting Officer shall insert the clause at 2452.237–72, Coordination of Data Collection Activities, in solicitations and contracts where the Contractor is required to collect information from ten or more public respondents.

(d) The Contracting Officer shall insert the clause at 2452.237–73, Conduct of Work, in all service contracts.

(e) The Contracting Officer shall insert the clause at 2452.237–74, Technical Direction, in all cost-reimbursement solicitations and contracts for services.

(f) The Contracting Officer shall insert the clause at 2452.237–75, Clearance of Personnel, in all solicitations and contracts where Contractor personnel will be working on-site in any HUD office. Contractors shall be required to complete Forms FD–258, "Fingerprinting Charts" and GSA–176, "Statement of Personal History."

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 2442—CONTRACT ADMINISTRATION

40. Part 2442 is added to read as follows:

Subpart 2442.7—Indirect Cost Rates

Sec.
2442.705 Final indirect cost rates.
2442.705–70 Contract clause.

Subpart 2442.11—Production Surveillance and Reporting

2442.1106 Reporting requirements.
2442.1107 Contract clause.

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2442.7—Indirect Cost Rates

2442.705 Final indirect cost rates.

2442.705–70 Contract clause.

The Contracting Officer shall insert the clause at 2452.242–70, Indirect Costs, in cost-reimbursement type solicitations and contracts when it is determined that the Contractor will be compensated for negotiated or provisional indirect cost rates pending establishment of final indirect cost rates.

Subpart 2442.11—Production Surveillance and Reporting

2442.1106 Reporting requirements.

(a) All contracts for professional or technical services exceeding $100,000.00 shall use HUD Form 441.1, "Project Management System Baseline Plan," to outline how the Contractor proposes to carry out the contract work and HUD Form 661.1, "Project Management System Progress Report," to monitor quantitative progress against the baseline plan. Each of these forms shall be accompanied by a narrative description. The Contracting Officer may waive the requirement to use these forms if he or she believes the Statement of Work or contractor's technical proposal are sufficiently specific or another acceptable means for project management is substituted. Contracts awarded under the Acquired Property Program are exempt from use of this reporting requirement.

2442.1107 Contract clause.

The Contracting Officer shall insert the clause at 2452.242–71, Project Management System, in solicitations and contracts for professional or technical services exceeding $100,000 unless the Contracting Officer determines that the Statement of Work or technical proposal is sufficiently specific or another acceptable method for project management is substituted.

41. Part 2446 is added to read as follows:

PART 2446—QUALITY ASSURANCE

Subpart 2446.5—Acceptance

Sec.
2446.502 Responsibility for acceptance.
2446.502–70 Contract clause.

Subpart 2446.6—Material Inspection and Receiving Reports

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2446.5—Acceptance.

2446.502 Responsibility for acceptance.

2446.502–70 Contract clause.

The Contracting Officer shall insert the clause at 2452.246–70, Inspection and Acceptance, in solicitations and contracts unless inspection and acceptance will be performed by

someone other than the Government Technical Representative (GTR).

Subpart 2446.6—Material Inspection and Receiving Reports

Note: Inspection of contractor's performance shall be performed as often as necessary to protect HUD's interest. HUD Form 9519, Acquired Property Inspection Report, shall be used to document inspection and acceptance for work performed on properties under the Acquired Property Program. Distribution shall be as indicated on the form.

42. Part 2451 is added to read as follows:

PART 2451—USE OF GOVERNMENT SOURCES BY CONTRACTORS

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2451.3—Contractor Use of Government Discount Air Passenger Transportation Rates

2451.303 Contract clause.

The Contracting Officer shall insert the clause at 2452.251–70, Contractor Employee Travel, in all cost-reimbursement contracts involving airline travel.

SUBCHAPTER H—CLAUSES AND FORMS

43. Part 2452 is added to read as follows:

PART 2452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 2452.2—Texts of Provisions and Clauses

Sec.

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2452.2—Texts of Provisions and Clauses

2452.209–70 Organizational conflicts of interest notification.

As prescribed in 2409.508–1, insert the following solicitation provision in all solicitations.

Organizational Conflict of Interest Notification (Feb 1987)

(a) It is the Department of Housing and Urban Development's policy to avoid situations which place an offeror in a position where its judgment may be biased because of any past, present, or currently planned interest, financial or otherwise, that the offeror may have which relates to the work to be performed pursuant to this solicitation or where the offeror's performance of such work may provide it with an unfair competitive advantage.

(b) Offerors shall provide a statement which describes in a concise manner all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the offeror has a possible organizational conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair competitive advantage. The offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other divisions or sections of the organization and how that structure or system would avoid or mitigate such organizational conflict. (Offerors should refer to FAR Subpart 9.5 and HUDAR Subpart 2409.5 for policies and procedures for avoiding, neutralizing, or mitigating organizational conflicts of interest).

(c) In the absence of any relevant interests referred to above, the offeror shall complete the certification at 2452.209–71, Organizational Conflicts of Interest Certification.

(d) No award shall be made until the disclosure or certification has been evaluated by the Contracting Officer. Failure to provide the disclosure or certification will be deemed to be a minor infraction and the offeror will be permitted to correct the omission within a time frame established by the Contracting Officer.

(e) Refusal to provide the disclosure or certification and any additional information as required, or the willful nondisclosure or misrepresentation of any relevant information shall disqualify the offeror.

(f) If the Contracting Officer determines that a potential conflict exists, the selected offeror shall not receive an award unless the conflict can be avoided or otherwise resolved through the inclusion of a special contract clause or other appropriate means. The terms of any special clause are subject to negotiation.

(End of provision)

2452.209–71 Organizational conflict of interest certification.

As prescribed in 2409.508–1, insert the following solicitation provision in all solicitations.

Organizational Conflicts of Interest Certification (Apr 1984)

The bidder or offeror certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed Government contract and the bidder or offeror's organizational, financial, contractual or other interests may, without some restriction on future activities:

(a) Result in an unfair competitive advantage to the offeror; or

(b) Impair the offeror's objectivity in performing the contract work.

☐ In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to

Offeror(s) or Bidder(s)

_____ possible performance of this procurement.

(End of provision)

2452.209–72 Organizational conflicts of interest.

As prescribed in 2409.508–2, insert the following contract clause in all contracts.

Organizational Conflicts of Interest (Apr 84)

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a Government contract and a Contractor's organizational, financial, contractual or other interests are such that:

(1) Award of the contract may result in an unfair competitive advantage; or

(2) The Contractor's objectivity in performing the contract work may be impaired.

(b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict.

The Government may, however, terminate the contract for the convenience of the Government if it would be in the best interest of the Government.

(c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the Government may terminate the contract for default.

(d) The provisions of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

(End of clause)

2452.212-70 Contract period.

As prescribed in 2412.104(a), insert the following clause in all term form cost-reimbursement and fixed-price service solicitations and contracts.

Contract Period (Apr 1984)

The Contractor shall complete all work hereunder, including delivery of the final report, if required, within _____ months from the effective date of the contract.

(End of clause)

2452.215-70 Proposal content and outline.

As prescribed in 2415.407(a), insert the following solicitation provision in all solicitations over the small purchase limitation.

Proposal Content and Outline (Apr 1984)

(a) Proposals shall be submitted in two separate parts as further described below and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The envelope must show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror. Part I shall consist of the technical and management submittal of the proposed work. Part II shall consist of complete cost and pricing data. Each part of the proposal shall be complete in itself so that the evaluation of both parts can be accomplished concurrently, and the evaluation of the technical and management submittal can be made strictly on the basis of its merit.

(b) *Part I—Technical and Management.*

Section 1: *Proposal Coverage.* Cover the scope of work and general objectives which the proposal addresses.

Section 2: *Tasks and Methods.* Describe the principal tasks or sub-projects to be undertaken together with a discussion of their relationships to each other. Discuss the considerations for selecting, performing and the time sequencing of the tasks or sub-projects. Describe and discuss the method of personnel training and field personnel recruitment and the method of project control to be applied to the project to ensure timely, professional and quality performance. The Contractor must clearly state his/her plans for project management and in providing current and updated project progress to HUD during those phases of Contractor performance that require substantial coordination with HUD personnel.

Section 3: *Organization and Staffing.* Include an organizational chart for the project showing the name of the project manager and the names of key personnel. Include a brief resume for each person shown on the special qualifications applicable to the performance of the project. Describe the specific effort to be contributed to the project by each of the key personnel and include a statement expressed either in percentage or person-hours that each will devote to the effort. Include a summation of the minimum person-hours or person-months of professional effort to be used in completing the project. Describe the physical facilities to be used. If consultants, advisors or subcontractors are to be used, describe the arrangements and include resumes of the key personnel.

Section 4: *Prior and Current Experience.* Include a list of projects currently in progress and completed within the last two years which are relevant to this procurement. Include names, addresses and telephone numbers of contact points with these clients. The Government reserves the right to request information from any source so named.

Section 5: *Conflicting or Multiple Use of Contractor Resources.* Include a description of the contractor's current or planned projects that may draw upon resources or personnel, including top management, proposed to be committed to this project. Explain how such conflicting or multiple uses will be resolved to avoid impairing the timely, professional, and high-quality performance of this project. If the proposer has one or more existing HUD projects that will run concurrently with this project, explain how the level of attention described in the proposal will be preserved across projects.

The Government reserves the right to downgrade the related Factor for Award score for any proposal that does not adequately and credibly address such conflicts or multiple uses.

(c) *Part II—Cost and Pricing Data.*

Furnish cost or pricing data using the forms provided in Part III, Section J of this solicitation, SF-1411, Contract Pricing Proposal. Instructions for using that form are also in Section J. Round all amounts to the nearest dollar. Also execute the "Certifications and Representations" included in Part IV, Section K, and, where appropriate, a "Certification of Current Cost or Pricing Data". Furnish the names and telephone number of the Government audit organization having cognizance of your activity.

(d) Proposals shall be submitted in six (6) copies each of Part I and II.

(End of provision)

2452.215-71 DUNS contractor establishment number.

As prescribed in 2415.407(b), insert the following solicitation provision in all solicitations which exceed the small purchase limitation.

DUNS Contractor Establishment Number (Apr 1984)

Offerors or Bidders are required to complete the following for all solicitations which exceed the small purchase limitation. DUNS Contractor Establishment Number _____.

(End of provision)

2452.216-70 Estimated cost, base fee, and award fee.

As prescribed in 2416.405(e)(1), insert the following clause in all award fee contracts.

Estimated Cost, Base Fee, and Award Fee (Apr 1984)

The estimated cost of this contract is $ (Insert Amount). A base fee of $ (Insert Amount) is payable in accordance with the clause entitled Payment of Base and Award Fee. In addition, a maximum Award Fee of $ (Insert Amount) is available for payment in accordance with the clause entitled Payment of Base and Award Fee.

(End of clause)

2452.216-71 Payment of base and award fee.

As prescribed in 2416.405(e)(1), insert the following clause in all award fee contracts.

Payment of Base and Award Fee (Aug 1987)

(a) *Base Fee.* The Government will make payment of the base fee in (insert number) increments on the schedule set forth in the Performance Evaluation Plan established by the Government. The amount payable shall be based on the progress toward completion of contract tasks as determined by the Contracting Officer. Payment of the base fee is subject to any withholdings as provided for elsewhere in this contract.

(b) *Award Fee.* The Government shall make payments of the award fee in accordance with the schedule established in the Performance Evaluation Plan and the Evaluation Period(s) set forth in the Distribution of Award Fee clause.

(End of clause)

2452.216-72 Determination of award fee earned.

As prescribed in 2416.405(e)(1), insert the following clause in all award fee contracts.

Determination of Award Fee Earned (Aug 1987)

(a) At the conclusion of each evaluation period specified in the Performance Evaluation Plan, the Government shall evaluate the contractor's performance and determine the amount, if any, of award fee

earned by the contractor. The amount of award fee to be paid will be determined by the designated Fee Determination Official's (FDO) judgmental evaluation in accordance with the criteria set forth in the Performance Evaluation Plan. This decision is made unilaterally by the Government and is not subject to the disputes clause or the provisions of the Contract Disputes Act of 1978, 41 U.S.C. 601 *et seq.* In reaching this decision, the FDO may consider any justification of award fee the Contractor submits, provided that the justification is submitted within (*insert number*) days after the end of an evaluation period. The FDO determination shall be in writing, shall set forth the basis of the FDO's decision, and shall be sent to the Contractor within (*insert number*) days after the end of the evaluation period.

(b) The FDO may specify in any fee determination that fee not earned during the period evaluated may be accumulated and be allocated for award during a later evaluation period. The Distribution of Award Fee clause shall be amended to reflect the allocation.

(End of clause)

2452.216-73 Performance evaluation plan.

As prescribed in 2416.405(e)(1), insert the following clause in all award fee contracts.

Performance Evaluation Plan (Aug 1987)

(a) The Government shall unilaterally establish a Performance Evaluation Plan that will provide the basis for the determination of the amount of award fee awarded under the contract. The Plan shall set forth evaluation criteria and percentage of award fee available for (1) technical functions, including schedule requirements if appropriate, (2) management functions; and, (3) cost functions. The Government shall furnish a copy of the Plan to the Contractor (*insert number*) days before the start of the first evaluation period.

(b) The Government may initially revise the Performance Evaluation Plan at any time during the contract term. The Contractor shall be notified at least (*insert number*) days before the start of the evaluation period to which the change will apply.

(End of clause)

2452.216-74 Distribution of award fee.

As prescribed in 2416.405(e)(1), insert the following clause in all award fee contracts.

Distribution of Award Fee (Apr 1984)

(a) The total amount of award fee available under this contract is assigned to the following evaluation periods in the following amounts:

Evaluation Period: ——— ———————

Available Award Fee: ——— ———————

(b) In the event of contract termination, either in whole or in part, the amount of award fee available shall represent a pro-rata distribution associated with evaluation period activities or events as determined by the Fee Determination Official as designated in the contract. The contract clauses required for cost reimbursement contracts should be modified for use under award fee contracts as cited below:

(1) The term "base fee and award fee" should be substituted for "fixed-fee" where it appears in the clause at FAR 52.243-2, Changes.

(2) The term "base fee" should be substituted for "fee" where it appears in the clauses at FAR 52.232-20, Limitation of Costs, and FAR 52.232-22, Limitation of Funds.

(3) The phrase "base fee, if any, and such additional fee as may be awarded as provided for in the Schedule"; should be substituted for the term "fee" whenever it appears in the clause at FAR 52.216-7, Allowable Cost and Payment.

(End of clause)

2452.216-75 Unpriced task orders.

As prescribed in 2416.504(e), insert the following clause in all indefinite-quantity contracts.

Unpriced Task Orders (Apr 1984)

(a) Although it is anticipated that the Government and the Contractor will reach agreement on the total cost and fee or profit (if applicable) for the effort to be undertaken, prior to the issuance of a Task Order, there may be occasions when the Government wishes to authorize commencement of work prior to agreement on price. If this is the case, a Task Order may be issued which provides that the Contractor shall immediately commence performance of the services specified in the order, and shall submit a pricing proposal within fifteen days of receipt of the Task Order. Upon negotiations of the cost, a supplemental agreement shall be executed to make specific all terms and conditions of the Task Order. Failure to agree for costs ordered under this procedure shall be considered a dispute within the meaning of the clause of this contract entitled Disputes.

(b) Unpriced Task Orders shall indicate a "not-to-exceed" amount for the order; however, such amount shall not exceed 50 percent of the estimated cost of the Task Order. The Task Order shall only require the Contracting Officer's signature, but shall comply with all other Task Order requirements.

(End of clause)

2452.222-70 Accessibility of meetings, conferences, and seminars to persons with disabilities.

As prescribed in 2422.1408(c), insert the following clause in all solicitations and contracts.

Accessibility of Meetings, Conferences, and Seminars to Persons With Disabilities (Jul 1988)

The contractor shall assure that any meeting, conference, or seminar held pursuant to the contract will meet all applicable standards for accessibility to persons with disabilities pursuant to Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and any implementing regulations of the Department.

(End of clause)

2452.224-70 Freedom of Information Act notification.

As prescribed in 2424.202-70, insert the following provision in all solicitations.

Freedom of Information Act Notification (Apr 1984)

Proposals submitted in response to this solicitation are subject to disclosure under the Freedom of Information Act (FOIA). To assist the Department in determining whether or not to release information contained in a proposal in the event a FOIA request is received, offerors may, through clear earmarking or otherwise, indicate those portions of their proposals which they believe should not be disclosed. While an offeror's advice will be considered by the Department in its determination whether to release requested information or not, it must be emphasized that the Department is required by the FOIA to make an independent evaluation as to the information, notwithstanding the offeror's views. It is suggested that if an offeror believes that confidential treatment is appropriate, the basis for this view should be provided, where possible, because general assertions or blanket requests for confidentiality, without more information, are not particularly helpful to the Department in making determinations concerning the release of information under the Act. It should also be noted that the Department is required to segregate disclosable information from non-disclosable items, so particular care should be taken in the identification of each portion of which confidential treatment is requested. Offeror's views concerning confidentiality will be used to aid the Department in preparing its response to FOIA requests. Further, offerors should note that the presence or absence of such comments or earmarking regarding confidential information will have no bearing whatsoever on the evaluation of proposals submitted pursuant to this solicitation, nor will the absence of this earmarking automatically result in greater disclosure.

(End of provision)

2452.226-70 Certification of status as a minority business enterprise.

As prescribed in 2426.103, insert the following solicitation provision in all solicitations.

Certification of Status as a Minority Business Enterprise (Jun 1988)

[ ] Bidder, Offeror or Supplier certifies that he or she [ ] is, [ ] is not, (check one), a minority business enterprise which is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the box applicable to you)

[ ] Black Americans
[ ] Hispanic Americans
[ ] Native Americans
[ ] Asian Pacific Americans
[ ] Asian Indian Americans
[ ] Hasidic Jewish Americans

(End of Provision)

2452.232-70 Payment schedule and invoice submission (fixed-price).

As prescribed in 2432.908(a), insert the following clause in all fixed price solicitations and contracts.

Payment Schedule and Invoice Submission (Fixed-Price) (Mar 1988)

(a) *General.* The Government shall pay the Contractor as full compensation for all work required, performed and accepted under this contract, inclusive of all costs and expenses, the firm fixed-price stated in Part I, Section B of this contract.

(USE PARAGRAPH (b) ONLY IF PARTIAL PAYMENTS APPLY. OTHERWISE PARAGRAPH (a) ABOVE ASSUMES THE CONTRACTOR WILL BE PAID THE FULL AMOUNT UPON COMPLETION OF ALL CONTRACT REQUIREMENTS)

(b) *Payment Schedule.* Payments will be made in accordance with the following partial payment schedule:

Partial payment number	Specific deliverable	Delivery date	Payment amount
1. [ ]			
2. [ ]			
3. [ ]			

(Continue as necessary)

(c) *Submission of Invoices.* Invoices shall be submitted in an original and three (3) copies to the payment office identified in Block 12 of the SF-26 or Block 25 of the SF-33. To constitute a proper invoice, the invoice must include all items per FAR 52.232-25, "Prompt Payment."

To assist the Government in making timely payments, the Contractor is also requested to identify the appropriation number (from Block 14 if award is made on the SF-26 or Block 21 if award is made on the SF-33) on each invoice. The Contractor is also requested to identify on the envelope that an invoice is enclosed.

(d) *Contractor Remittance Address.* Payment shall be made to the Contractor's address as specified on the cover page of this contract, unless a separate remittance address is specified below:

(Insert appropriate address)

(End of clause)

Alternate I (Mar 1988).

This alternate is required for all fixed-price contracts issued by Regional Contracting Officers. In such cases, substitute the following paragraph (c) for that in the basic clause:

(c) Invoices shall be submitted in an original and three (3) copies to the office identified in Block 5 of the SF-26 or Block 7 of the SF-33. To constitute a proper invoice, the invoice must include all items per FAR 52.232-25, "Prompt Payment."

2452.232-71 Voucher submission (cost-reimbursement).

As prescribed in 2432.908(b), insert the following clause in all cost-reimbursement solicitations and contracts.

Voucher Submission (Cost-Reimbursement) (Mar 1988)

(a) The Contractor shall submit, on a monthly basis (Contracting Officer may substitute a different time frame, if appropriate), an original and two (2) copies of each voucher. In addition to the items necessary per FAR 52.232-25, "Prompt Payment," the voucher shall show the elements of cost for the billing period and the cumulative costs to date. All vouchers shall be distributed as follows, except for the final voucher which shall be submitted in all copies to the Contracting Officer.

Interim vouchers	Attention of	Address shown on face of contract in block
Original	Voucher Examiner	12
One copy	Contracting Officer	5
One copy	GTR	11

To assist the Government in making timely payments, the Contractor is requested to identify the appropriation number (from Block 14 of the SF 26) on each voucher. The Contractor is also requested to identify on the envelope that a voucher is enclosed.

(b) Contractor Remittance Address.

Payment shall be made to the Contractor's address as specified on the cover page of this contract, unless a separate remittance address is specified below:

(Insert appropriate address)

(End of clause)

Alternate I (Mar 1988)

This alternate is required for all cost-reimbursement contracts issued by Regional Contracting Officers. In such cases, substitute the following paragraph (a) for that in the basic clauses:

(a) The Contractor shall submit, on a monthly basis (Contracting Officer may substitute a different time frame, if appropriate), an original and three (3) copies of each voucher. In addition to the items necessary per FAR 52.232-25, "Prompt Payment," the voucher shall show the elements of cost for the billing period and the cumulative costs to date. All vouchers shall be submitted to the Contracting Officer specified in Block 5 of the contract.

2452.237-70 Key personnel.

As prescribed in 2347.110(a), insert the following clause in solicitations and contracts when it is necessary for contract performance to identify the Contractor's key personnel.

Key Personnel (Apr 1984)

The personnel specified below are considered to be essential to the work being performed under this contract. Prior to diverting any of the specified individuals to other projects, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer: Provided, that the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by this clause. This clause may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

(List Key Personnel)

(End of clause)

2452.237-71 Reproduction of reports.

As prescribed in 2437.110(b), insert the following clause in solicitations and contracts where the Contractor is required to produce, as an end product, publications or other written materials.

Reproduction of Reports (Apr 1984)

In accordance with Title I of the Government Printing and Binding Regulations, printing of reports, data, or other written material, if required herein, is authorized provided that the material produced does not exceed 5,000 production units of any page and that items consisting of multiple pages do not exceed 25,000 production units in aggregate. The aggregate number of production units is determined by multiplying pages times copies. A production unit is one set, size 8½ by 11 inches or less, printed on one side only and in one color. All copy preparation to produce camera ready copy for reproduction must be set by methods other than hot metal typesetting. The reports should be produced by methods employing stencils, masters, and plates which are to be used in single unit duplicating equipment no larger than 11 by 17 inches with a maximum image of 10¾ by 14¼ inches and are prepared by methods or devices that do not utilize reusable contact negatives and/or positives prepared with a camera requiring a darkroom. All reproducibles (camera ready copies for reproduction by photo offset methods) shall become the property of the Government and shall be delivered to the Government with the report, data, or other written materials.

(End of clause)

2452.237-72 Coordination of data collection activities.

As prescribed in 2437.110(c), insert the following clause in solicitations and contracts where the Contractor is required to collect identical information from ten or more public respondents.

Coordination of Data Collection Activities (Apr 1984)

If it is established at award or subsequently becomes a contractual requirement to collect identical information from ten or more public respondents, the Paperwork Reduction Act (44 U.S.C. 3501–3520) applies. In that event, the Contractor shall not take any action to solicit information from any of the public respondents until notified in writing by the Contracting Officer that the required Office of Management and Budget (OMB) final clearance was received.

(End of clause)

2452.237–73 Conduct of work.

As prescribed in 2437.110(d), insert the following clause in all contracts for services.

Conduct of Work (Apr 1984)

(a) The Government Technical Representative (GTR) for liaison with the Contractor as to the conduct of work is _____, or a successor designated in writing by the Contracting Officer.

(b) The Contractor's work hereunder shall be carried out under the supervision of _____.

(End of clause)

Alternate I. This alternate is required for all fixed-price contracts for services. In such cases, add the following paragraph (c):

(c) The GTR shall provide direction on contract performance. Such direction must be within the contract scope of work and may not be of a nature which: (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in FAR 52.243–2; (3) causes an increase or decrease in the cost of the contract; (4) alters the period of performance or delivery dates; or, (5) changes any of the other express terms or conditions of the contract.

2452.237–74 Technical direction.

As prescribed in 2437.110(e), insert the following clause in all cost-reimbursement type solicitations and contracts.

Technical Direction (Jun 1985)

(a) The GTR will provide technical direction on contract performance. Technical direction includes:

(1) Direction to the contractor as to which areas the Contractor is to emphasize or pursue.

(2) Comments on and approval of reports or other deliverables.

(b) Technical direction must be within the contract Statement of Work.

The GTR does not have the authority to issue technical direction that: (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in FAR 52.243–2; (3) causes an increase or decrease in the estimated cost of the contract; (4) alters the period of performance; or (5) changes any of the other express terms or conditions of the contract.

(c) Technical direction will be issued in writing by the GTR or confirmed by him or her in writing within five calendar days after verbal issuance.

(End of clause)

2452.237–75 Clearance of personnel.

As prescribed in 2437.110(f), insert the following clause in solicitations and contracts where contractor personnel will be working on-site in any HUD office.

Clearance of Personnel (Jun 1985)

(a) The Contractor shall submit to the Contracting Officer within five days after contract award, two (2) completed Forms FD–258, "Fingerprinting Charts" and one (1) GSA Form 176, "Statement of Personal History," for the Contractor and all employees who have access to the building in performance of the contract work. These forms must be submitted for all replacement employees prior to entrance on duty. Necessary forms will be furnished by HUD. If the Contracting Officer receives an unsuitable report on any employee after processing of these forms or if the Contracting Officer finds a prospective employee to be unsuitable or unfit for his/her assigned duties, the Contractor shall be advised immediately that such employee cannot continue to work or be assigned to work under the contract.

(b) HUD shall have and exercise full and complete control over granting, denying, withholding, or terminating employment eligibility of contractor employees.

(c) Temporary identification/building passes shall be issued to each Contractor employee working on-site. The Contractor shall submit to the GTR a list of those employee(s) with their Social Security number(s). Building passes, when issued, shall indicate an expiration date not exceeding the first-year term of the contract. The passes shall be renewed for each succeeding option year, if any. The Contractor shall return, to the GTR, all building passes upon expiration of the contract, whenever the employment of any such employee is terminated, or when an employee no longer has a need for access to the building.

(End of clause)

2452.242–70 Indirect costs.

As prescribed in 2442.705–70, insert the following clause in cost-reimbursement type solicitations and contracts when it is determined that the Contractor will be compensated for negotiated or provisional indirect cost rates pending establishment of final indirect cost rates.

Indirect Costs (Apr 1984)

(a) Pursuant to the provisions of the clause of this contract entitled, "Allowable Cost and Payment" the rates listed below are established. If the column entitled, "Ceiling Rate" has rates listed, the ceiling applies for those rates only. If there are no ceiling rates listed, ceilings do not apply to this contract and the provisions of paragraph (b) of this clause are not applicable.

Period	Category	Provisional rate	Ceiling rate	Base

Effective date until amended:

(b) For the term of this contract, the final indirect rates shall not exceed the ceiling rates listed above, if any. However, in the event the indirect rates developed by the cognizant audit activity on the basis of actual allowable costs are less then the ceiling rates agreed to herein, then the rates established by such cognizant audits shall apply (downward adjustment only). The Government shall not be obligated to pay any additional amounts on indirect rates above the ceiling rates set forth for the applicable period.

(End of clause)

2452.242–71 Project management system.

As prescribed in 2442.1107, insert the following clause in solicitations or contracts for professional or technical services exceeding $100,000. Use of this system may be waived by the Contracting Officer if he or she believes the Statement of Work or technical proposal are sufficiently specific or another acceptable means of project management is substituted.

Project Management System (Jun 1984)

The Contractor shall provide to the GTR and Contracting Officer a project management system workplan and regular status reports showing actual progress against the workplan. The project management system utilizes two reporting forms (the HUD 441.1 Baseline Plan and the HUD 661.1 Progress Report), in addition to a narrative description. Briefly, the workplan and progress reports shall consist of the following:

Workplan

The workplan shall consist of a narrative description and a graphic summary (HUD 441.1) of the schedule and financial elements of the contract. The narrative shall: (1) describe the planned schedule; (2) identify each step in the work process required for completing the contract work and the period of time needed to accomplish each step, expressed in terms of calendar dates; (3) provide the staff, financial, and other resources allocated to each task; and, (4) provide the rationale for project organization,

staff utilization, and other resources allocated to each task or activity. The HUD 441.1 shall show: (1) cumulative planned or budgeted costs of work scheduled for each reporting period over the life of the contract; and (2) the planned project schedule that traces, by reporting period, the task or subtask start dates, periods of work in progress, and completion dates.

Progress Reports

Progress reports shall consist of a narrative report and the HUD 661.1 which depicts actual progress against planned progress. The narrative report shall: (1) provide a brief, factual summary description of technical progress made and costs incurred for each task (or group of tasks) during the reporting period; and, (2) identify significant problems and their impacts, causes, proposed corrective actions, and the effect that such corrective actions will have on the accomplishment of the contract objectives. The HUD 661.1 reproduces the Baseline Plan (HUD 441.1) and shall show: (1) the schedule status or the degree of completion of tasks/activities by time intervals; and, (2) cost status or the actual costs of work performed in accomplishing the tasks.

Specific and detailed guidance on preparing the forms and the narratives may be obtained from the GTR.

(End of clause)

2452.246-70 Inspection and acceptance.

As prescribed in 2446.502-70, insert the following clause in solicitations and contracts unless inspection and acceptance will be performed by someone other than the GTR.

Inspection and Acceptance (Apr 1984)

Inspection and acceptance of all work required under this contract shall be performed by the Government Technical Representative (GTR) identified in Block 11 of the SF-26, or other individual as designated by the Contracting Officer of GTR.

(End of caluse)

2452.251-70 Contractor employee travel.

As prescribed in 2451.303, insert the following clause in all cost-reimbursement solicitations and contracts involving airline travel.

Contractor Employee Travel (Feb 1987)

(a) In the event that travel is required by this contract, the Contractor shall, to the maximum extent practical, utilize the travel discounts offered to Federal travelers, through use of contracted airline discount air fares, hotel and motel lodging rates, and car rental companies, which are available to contractor employees performing official Government contract business. Vendors providing these services may require that the contractor employee traveling on Government business be furnished with a letter of identification signed by the Contracting Officer.

(b) The Contractor shall provide the Contracting Officer with the names of those individuals who are required to travel per the contract terms. The Contracting Officer shall provide the Contractor with an identification letter for presentation to the participating vendors.

(c) The Contractor shall bill the Government for the actual costs incurred for travel in accordance with FAR 31.205-46, ensuring that other savings achieved through the use of any discount fares accrue to the Government.

(End of clause)

44. Part 2453 is added to read as follows:

PART 2453—FORMS

Spec.
2453.000 Scope of part.

Subpart 2453.2—Prescription of Forms

2453.213 Small purchases and other simplified purchase procedures.
2453.213-70 HUD Form 24007, Purchase/Delivery Order Data File.
2453.213-71 HUD Form 24001, Order for Supplies or Services.
2453.213-72 HUD Form 2542, Purchase Order and Payment Authorization.
2453.215 Contracting by negotiation.
2453.215-70 HUD Form 4056, Abstract of Proposals.
2453.217 Special contracting methods.
2453.217-70 HUD Form 730, Award/Modification of Interagency Agreement.
2453.227 Patents, data, and copyrights.
2453.227-70 HUD Form 770, Report of Inventions and Subcontracts.
2453.242-70 HUD Form 441.1, Project Management System Baseline Plan.
2453.242-71 HUD Form 661.1, Project Management System Progress Report.
2453.246 Quality Assurance.
2453.246-70 HUD Form 9519, Acquired Property Inspection Report.

Authority: Section 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2453.000 Scope of part.

This part prescribes Agency forms for use in acquisition and contains requirements and information generally applicable to the forms.

Subpart 2453.2—Prescription of Forms

2453.213 Small purchases and other simplified purchase procedures.

2453.212-70 HUD Form 24007, Purchase/Delivery Order Data File

As prescribed in 2413.107(a)(4), HUD Form 24007 may be used by the Contracting Officer to record all relevant data pertaining to a small purchase, including recording written and oral quotations received and documenting orders against GSA contracts.

2453.213—71 HUD Form 24001, Order for Supplies or Services.

As prescribed in 2413.505-2(a), Contracting Officers may use HUD Form 24001 in lieu of Optional Form 347 for individual purchases not exceeding the small purchases limit.

2453.213-72 HUD Form 2542, Purchase Order and Payment Authorization.

As prescribed in 2413.505-2(b), Contracting Officers shall use HUD Form 2542 for small purchases under the Acquired Property Programs.

2453.215 Contracting by negotiation.

2453.215-70 HUD Form 4056, Abstract of Proposals.

As prescribed in 2415.411-70, HUD Form 4056 may be used by the Contracting Officer to record the names and addresses of offerors whose proposals are received before the stated deadline.

2453.217 Special contracting methods.

2453.217-70 HUD Form 730, Award/Modification of Interagency Agreement.

As prescribed in 2417.504(b), HUD Form 730 shall be used by Contracting Officers when placing or modifying an order for supplies or services from another Government agency.

2453.227 Patents, data, and copyrights.

2453.227-70 HUD Form 770, Report of Inventions and Subcontracts.

As prescribed in 2427.305-2, HUD Form 770 shall be completed by the Contractor, and submitted to the Contracting Officer, if requested, upon completion of the contract.

2453.242 Contract administration.

2453.242-70 HUD Form 441.1, Project Management System Baseline Plan.

As prescribed in 2442.1106(a), HUD Form 441.1 shall be used in contract for professional or technical services exceeding $100,000.00 by Contractors to show how they propose to carry out the contract work. The requirement may be waived by the Contracting Officer if he or she believes that the Statement of Work or Contractor's technical proposal is sufficiently specific or another acceptable means for project management is substituted.

2453.242-71 HUD Form 661.1, Project Management System Progress Report.

As prescribed in 2442.1106(a), HUD Form 661.1 shall be used in conjunction with the HUD Form 441.1 to monitor quantitative progress against the baseline plan. The 661.1 need not be used if use of HUD Form 441.1 has been

waived by the Contracting Officer; however, some acceptable means of progress reporting must be substituted.

2453.246 Quality Assurance.

2453.246-70 HUD Form 9519, Acquired Property Inspection Report.

As prescribed in 2446.6, HUD Form 9519 shall be used to document inspection and acceptance for work performed on properties under the Acquired Property Program.

45. Subchapter U consisting of Part 2470 is removed in its entirely.

Dated: October 27, 1988.

Judith L. Hofmann,

Assistant Secretary for Administration.

[FR Doc. 25427 Filed 11-16-88; 8:45 am]

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Thursday
November 17, 1988

Part III

Department of Health and Human Services

Public Health Service

42 CFR Part 57

Health Professions Student Loan Program; Final Regulations

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Health Professions Student Loan Program

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: This rule revises existing regulations governing the Health Professions Student Loan (HPSL) program to implement amendments made to the Public Health Service Act (the Act) by the Health Professions Training Assistance Act of 1985, to clarify the definition of "default," add a paragraph on reallocation of funds, and establish hearing procedures. Also, this rule incorporates an update of the definition of exceptional financial need used for determining eligibility for students of medicine and osteopathic medicine, and to require schools to verify information provided by the student on the loan application.

EFFECTIVE DATE: These regulations are effective November 17, 1988.

FOR FURTHER INFORMATION CONTACT: Ms. Peggy Washburn, Chief, Program Development Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number: 301–443–4540.

SUPPLEMENTARY INFORMATION: On June 3, 1987, the Department published a Notice of Proposed Rulemaking (NPRM) (52 FR 20989) to incorporate amendments to the HPSL program made by Pub. L. 99–129, the Health Professions Training Assistance Act of 1985. The Department received 13 written comments on the NPRM from 9 schools and 4 professional associations. The comments and the Department's responses are discussed below. For clarity, the comments and responses are arranged according to the section numbers and headings of the rule to which they pertain.

Section 57.202 Definitions.

Respondents were generally in favor of the statutory definition of "default." However, they objected to the proposal that if a borrower has failed to make an installment payment when due, the school may reasonably conclude that the borrower intends to repay the loan and thus exclude the loan from the default category only in the following situations: (1) If the loan is in forbearance, or (2) if the borrower's repayment schedule has been renegotiated and the borrower is complying with the renegotiated schedule. The respondents believed the proposal to be unnecessarily restrictive and suggested that payments of significant portions of the loan or contacts by a credit counseling organization on behalf of a borrower should also be evidence of a borrower's intent to repay the loan.

Three respondents supported the proposal, stating that loans in forbearance or under renegotiated repayment schedules generally involved borrowers of good faith who had sustained temporary setbacks of some kind and did not not merit the label of defaulter.

The Secretary believes that responsible borrowers who have temporary financial problems, but who plan to fulfill their obligations, will enter into a renegotiation or forbearance agreement, and abide by the agreement. Therefore, the Department has retained this provision as proposed.

Section 57.204 Payment of Federal capital contributions.

Generally, the respondents supported the proposed amendment in § 57.204(c) to reallocate funds returned to the Department under procedures consistent with those used to allocate new Federal capital contributions. One respondent opposed the amended language because it limits schools eligible for the reallocation of remitted funds to only those institutions which established an HPSL program between July 1, 1972, and September 30, 1985, and where institutions have multiple HPSL programs, it prohibits the transfer of funds from overfunded programs to those which are underfunded.

The Secretary notes that this provision is consistent with the existing requirements in section 742(b) of the Act, as amended by Pub. L. 99–129, the Health Professions Training Assistance Act of 1985. That section authorizes the Department to reallocate remitted HPSL funds to schools which established an HPSL fund during the period July 1, 1972–September 30, 1985. It does not provide in any way for the transfer of funds from one school to another in an institution with multiple HPSL programs. Since the major concerns with this provision relate directly to statutory requirements it has been retained as proposed under the new heading entitled "*Payment of Federal capital contributions and reallocation of funds remitted to the Secretary*".

Section 57.206 Eligibility and selection of health professions student loan applicants.

Respondents generally supported the increase in the maximum allowable level of resources from $5,000 to $6,000 or one-half the cost of attendance, whichever is lesser, as proposed in § 57.206(a)(1)(iv) for determining eligibility for students of medicine and osteopathic medicine. However, they suggested that the Department conduct frequent reviews of the costs of health education to determine if the definition of exceptional financial need remains appropriate in future years. One respondent opposed the proposed level of the increased threshold for maximum allowable resources. This respondent noted that $6,000 no longer represents half the costs of attendance at public schools of medicine, since the average total expenses at public medical schools for the 1987–88 school year were expected to reach $12,951. The respondent recommended that $6,500 would therefore be a more accurate threshold.

According to more recent information from the Association of American Medical Colleges, the average total cost for attending a public school of medicine was $13,432 for the 1987–1988 school year. Using the Department's rationale for proposing the $6,000 level, the maximum allowable level of resources should therefore by $6,700, which represents approximately half the average cost of attendance at a public medical school. The Department accepts the recommendation for the increased level and has revised the maximum allowable level of resources to $6,700 or one-half the cost of attendance, whichever is lesser.

Eight respondents were generally in favor of verification of financial aid information as proposed in § 57.206(d). However, the respondents expressed strong concerns with the vagueness of the wording of the proposal. The respondents believed that the proposal as presented leaves the impression that the school is responsible for verifying all the data on every application for financial aid, which would impose a significant administrative burden on schools. Most of the respondents noted that the Department of Education (ED) imposes a requirement to verify 30 percent of applications for financial aid and suggested that it would be appropriate for the Department to similarly limit the number of applications that must be verified. In addition, it was believed that the 30 percent limit on verification would

permit schools to focus verification efforts on those applications with the greatest potential for error. Further, since the Department requires that schools use a need analysis system approved by ED, and many of these systems have incorporated ED's computer edit check system, respondents encouraged the Department to adopt the verification procedures required by ED. Finally, the respondents explained that the adoption of ED's verification system would permit schools to use a single system of verification for all Federal student aid applicants rather than verify one set of data for student aid administered by ED and additional data for the HPSL program.

One respondent who requested clarification of this provision indicated that her institution currently requires certified copies of Internal Revenue Service (IRS) tax returns to verify both tax filing status and Social Security numbers, compares the admissions records to check for ineligible students and collects information annually on a personal data sheet prior to loan disbursement for skiptracing

Another respondent requested that the Secretary clarify what is meant by verification. The respondent asked the following questions: Would verification for the HPSL program be in the same manner that ED uses for its student assistance programs under Title IV of the Higher Education Act? What information should be verified that will assist in skiptracing? Does processing through a nationally approved need analysis system satisfy the verification requirement? Should the applicant's financial information (that which is used to determine eligibility) be verified even though it is not used in the skiptracing process? Is 100 percent verification of all applicants required or expected?

One respondent believed that schools are already gathering excessive documentation for a variety of checks on student eligibility and that the procedures currently in place should satisfy the intent of this paragraph. The respondent noted that parental tax information for HPSL students is currently requested by the school. The respondent suggested that the word "must" in the requirement be replaced by the word "should" or "is strongly encouraged to."

The Secretary believes that the school has an obligation to verify, to the best of its ability, the information provided by the student on the loan application. The Secretary does not, however, intend for a school to verify all data on every application for financial aid. The Secretary points out that the provision was not intended to be a new system of verification, but was intended to give schools the authority to require documents which the schools deem appropriate for verification and to require, to the extent possible, that verification be performed using information that is accessible within the school system (e.g., foreign student advisors, registrar's office, etc.).

In response to the suggestions that the Department adopt ED's verification system and the suggestions in favor of a single verification system for all Federal student aid programs, the Secretary notes that ED's verification system focuses on need analysis data. Further, the Secretary reiterates that the intent of this provision is to provide broad authority for schools to require from applicants information necessary to verify other parts of the student's application information, such as citizenship and skiptracing information as well as need analysis data. Accordingly, the Department has retained the provision in § 57.206(d) with clarification that a school may require that an applicant provide documentation to support information provided as part of the loan application process. Examples of supporting documentation include, but are not limited to: Photocopies of the parents', student's and spouse's Federal income tax forms with original signatures for the most recent tax year (or certification that no Federal income tax return was filed); tax returns that are certified as having been received by the IRS; certified copies of birth certificates; copies of alien registration cards; or other documentation that the school considers necessary to help assure that the information on the loan application is correct.

Section 57.213a Loan cancellation and reimbursement.

There was general agreement with the provision which would permit a school to assess a charge on HPSL loans to insure against the loss of its institutional contribution for loans made on or after October 22, 1985, that are canceled due to the borrower's death or permanent and total disability. However, there was much opposition to the maximum insurance premium which was proposed at .3 percent of the loan amount, because it was thought not to be cost effective. Two respondents stated that the dollar value involved in reimbursing a school for its portion of loans canceled, due to the borrower's death or permanent and total disability, is not significant. Further, the cost to implement and maintain this proposed procedure outweighs any benefits.

One respondent was in favor of the concept, but believed that the time and expense it would take to charge, bill, and record the transactions for each disbursement could make the proposed provision less than cost effective. In addition, the respondent noted that the change would probably need to be included in the Regulation Z, Truth in Lending Statement. Another respondent was concerned with the negative impact of an insurance fee on the overall costs of education, a student's indebtedness, and the financial aid administrators and their resources. The Secretary reminds these respondents that implementation of this provision, including the maximum or minimum rate at which the amount of the premium will be assessed, is at the discretion of the school. The Secretary agrees that if schools decide to implement this provision, the information must be included in the Truth in Lending disclosure statement required by Regulation Z (12 CFR Part 226).

One respondent stated that an institution should be allowed to set and define a maximum insurance premium rate based on the history of its program. This respondent explained that the calculated insurance rate for his school would be .629 percent for the period ending June 30, 1985, and .499 percent for the period ending June 30, 1986.

Since the primary purpose of this provision is to allow schools, at their discretion, to adequately cover the losses of their institutional contributions for loans appropriately canceled, the Secretary accepts the recommendation that a school should be allowed to use a rate in calculating the insurance premiums that reflects its cancellation experience and does not exceed .6 percent of the loan amount. The provision has been modified accordingly.

Section 57.215 Records, reports, inspection, and audit, and Section 57.216a Performance standard.

Four respondents were in favor of the revisions to paragraph (a) of § 57.215 and paragraph (d) of § 57.216a which allow a school to request a hearing with an administrative law judge prior to being terminated and provide procedures for determination by the Department of whether a hearing is warranted. Five respondents opposed the provisions because they believed that the procedures for determining if a hearings is warranted deny due process. Some of the respondents commented that allowing the Secretary to dismiss requests for hearing if the basis for the requests were judged to be frivolous or

inconsequential, runs counter to the essential purpose of a hearing and that any determination that the issues in dispute are frivolous or inconsequential should be made by the administrative law judge. They stated that providing a statement of the material, factual issues in dispute narrows the scope of review so dramatically as to render it meaningless for many, if not most, schools.

Another respondent commented that the Secretary's judgment regarding the decision to accept or deny the hearing is a conflict of interest, since the Secretary would be a party in the hearing proceedings and suggested authorizing a third party to determine if in fact the statement of factual issues is frivolous or inconsequential. One respondent took exception to the proposed provision, believing that as proposed it is contrary to the intent of Congress. The respondent believed that the intent was that the Department should consider administrative problems beyond the control of current school officials responsible for loan collection and intended that termination should be reserved for recalcitrant institutions that do not make good faith efforts to redress previous administrative shortcomings. A final concern of two other respondents was for clarification of the precise situation that would be untimely in requesting a hearing.

The Department emphasizes that the intent of the proposal is to assure that the hearing process is administered as efficiently and cost-effectively as possible for the schools and the Department, and concludes that it is consistent with both due process and legislative requirements. We note that under administrative hearing procedures, an administrative law judge can rule only on issues in dispute. Existing regulations have the effect of law and are not subject to dispute through a hearing before an administrative law judge.

A determination of what constitutes a factual issue in dispute is directly tied to the reporting requirements in § 57.215 or the performance standard in § 57.216a of the regulations. An example of a factual issue in dispute would be a case where a school alleges facts which, if true, would undercut the Department's determination that it has not met the requirements of the performance standard provision. Such a case would involve a material, factual issue in dispute that would be appropriate for resolution through a hearing by an administrative law judge.

The proposed procedure for determining whether a hearing must be conducted is essentially an administrative "summary judgment" proceeding. It is a well-settled principle that an agency has the authority to deny a hearing when it appears from the request that no substantial issue of fact is in dispute. *Weinberger v. Hynson, Westcott & Dunning*, 412 U.S. 609 (1973); *United States v. Storer Broadcasting Co.*, 351 U.S. 192, 202–205 (1956); *Pineapple Growers Association of Hawaii v. F.D.A.*, 673 F.2d 1083 (9th Cir. 1982).

Section 746 of the Act which requires the Secretary to provide an opportunity for a hearing does not constitute a bar to such summary judgment. When it is apparent from a request that there are no substantive issues in dispute, no purpose could be served by holding a public hearing. In upholding a similar summary judgment provision promulgated by the Food and Drug Administration, the Eighth Circuit articulated the rationale for the provision as follows:

> * * * The hearing is solely for the purpose of receiving evidence "relevant and material to the issues raised by such objections." Certainly, then the objections, in order to be effective and necessitate the hearing requested, must be legally adequate so that, if true, the order complained of could not prevail. The objections must raise "issues." The issues must be material to the question involved; that is, the legality of the order attacked. They may not be frivolous or inconsequential. Where the objections stated and the issues raised thereby are, even if true, legally insufficient, their effect is a nullity and no objections have been stated. Congress did not intend the governmental agencies created by it to perform useless or unfruitful tasks. If it is perfectly clear that the petitioner's appeal for a hearing contains nothing material and the objections stated do not abrogate the legality of the order attacked, no hearing is required by law. *Dyestuffs and Chemicals, Inc., v. Flemming*, 271 F.2d 281, 285 (8th Cir. 1959), *cert. denied* 362 U.S. 911 (1960).

One respondent suggested that the notice of intent to terminate be mailed by registered mail. In response, the Secretary notes that notification of termination status is currently being accomplished through certified mail, return receipt requested, and addressed to the authorized official as indicated by the school.

Finally, with regard to the comments concerning clarification of timely requests for a hearing, section 746 of the Act provides a 30-day period after receipt of the written notice of the Secretary's intent to terminate within which the school must request a hearing. The NPRM proposed an expansion of this period to 90 days to allow additional time for a school to prepare and submit material factual issues in dispute to warrant a hearing. The Department has clarified the time frame in the final regulations. The regulations state that the Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing.

Regulatory Flexibility Act and Executive Order 12291

The Department believes that the resources required to implement the proposed requirements in these regulations are minimal. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of HPSL schools.

The Department has also determined that this rule is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required. In addition, the rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291.

Paperwork Reduction Act

Sections 57.215 and 57.216a contain information collection requirements which have been approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980 and have been assigned control number 0915–0115.

List of Subjects in 42 CFR Part 57

Dental health, Grant programs-health, Education of disadvantaged, Health facilities, Educational facilities, Health professions, Educational study programs, Loan programs-health, Emergency medical services, Medical and dental schools, Grant programs-education, Scholarships and fellowships, Student aid.

Accordingly, Subpart C of 42 CFR Part 57 is amended as follows:

Dated: August 8, 1988.

Robert E. Windom,

Assistant Secretary for Health.

Approved: September 19, 1988.

Otis R. Bowen,

Secretary.

(*Catalog of Federal Domestic Assistance*, No. 13.342, Health Professions Student Loan Program).

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Subpart C—Health Professions Student Loans

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

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 740–747, Public Health Service Act, 77 Stat. 170–173, 90 Stat. 2266–2268, 91 Stat. 390–391, 95 Stat. 920, 99 Stat. 532–536 (42 U.S.C. 294m–q).

2. Section 57.202 is amended by revising the definition for "default" as follows:

§ 57.202 Definitions.

* * * * *

"Default" means the failure of a borrower of a loan made under this subpart to make an installment payment when due, or comply with any other term of the promissory note for such loan, except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy, the borrower's repayment schedule has been renegotiated and the borrower is complying with the renegotiated schedule, or the loan is in forbearance.

* * * * *

3. Section 57.204 is amended by revising the heading of the section and adding a new paragraph (c) as follows:

§ 57.204 Payment of Federal capital contributions and reallocation of funds remitted to the Secretary.

* * * * *

(c) *Reallocation of funds remitted to the Secretary.* All funds from a student loan fund established under this subpart which are remitted to the Secretary in any fiscal year shall be available for allotment under this subpart, in the same fiscal year and the succeeding fiscal year, to schools which, during the period beginning on July 1, 1972, and ending on September 30, 1985, established student loan funds with Federal capital contributions under this subpart. The Secretary will from time to time set dates by which the schools must file applications to receive a portion of these funds. If the total of the amounts requested for any fiscal year by eligible schools exceeds the amount of funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller:

(1) The amount requested in the application, or

(2) An amount which bears the same ratio to the total amount of returned funds determined by the Secretary at the time of payment to be available for that fiscal year for the Health Professions Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in all eligible schools during that year.

Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, with whatever adjustments may be necessary to prevent the total paid to any school from exceeding the total requested by it.

4. Section 57.206 is amended by revising paragraph (a)(1)(iv) and adding a new paragraph (d) as follows:

§ 57.206 Eligibility and selection of health professions student loan applicants.

(a) * * *

(1) * * *

(iv) Of exceptional financial need in the case of students of medicine or osteopathic medicine. A student will be considered to demonstrate exceptional financial need if the school determines that his or her resources, as described in paragraph (b)(1) of this section, do not exceed the lesser of $6,700 or one-half of the costs of attendance at the school. Summer earnings, educational loans, veterans (G.I.) benefits and earnings during the school year will not be considered as resources in determining whether an applicant meets the eligibility criteria for exceptional financial need, but will be considered in determining the amount of funds a student may receive; and

* * * * *

(d) *Verification of loan information.* The school must verify, to the best of its ability, the information provided by the student on the loan application. To comply with this requirement, a school may require that a student provide, for example: Photocopies of the parents', student's, and spouse's Federal income tax forms with original signatures for the most recent tax year (or certification that no Federal income tax return was filed); tax returns that are certified as having been received by the Internal Revenue Service; or other documentation that the school considers necessary to help assure that information on the loan application is correct.

5. Section 57.213a is revised as follows:

§ 57.213a Loan cancellation reimbursement.

(a) For loans made prior to October 22, 1985, in the event that insufficient funds are available to the Secretary in any fiscal year to enable him or her to pay to all schools their proportionate shares of all loans and interest canceled under this subpart for practice in a shortage area, death, or disability:

(1) Each school will be paid an amount bearing the same ratio to the total of the funds available for that purpose as the principal of loans canceled by that school in that fiscal year bears to the total principal of loans canceled by all schools in that year; and

(2) Any additional amounts to which a school is entitled will be paid by the Secretary at the time of distribution of the assets of the school's Fund under section 743 of the Act.

(b) For loans made on or after October 22, 1985, a school may assess the borrower a charge to insure against the loss of the institutional share of a loan canceled due to the borrower's death or permanent and total disability. The school must develop annually a rate which reflects its cancellation experience. This charge shall not exceed .6 percent of the loan amount. Funds collected under this provision must be maintained by the school in an insured, interest-bearing account (with any earned interest credited to this insurance fund), and used only to reimburse the school for the institutional share of any HPSL loan made on or after October 22, 1985, that is canceled due to the borrower's death or permanent and total disability. A school is not required to establish a separate bank account, but is required to maintain separate accountability.

6. Section 57.215 is amended by revising paragraph (a) and the OMB control number statement to read as follows:

§ 57.215 Records, reports, inspection, and audit.

(a) Each Federal capital contribution and Federal capital loan is subject to the condition that the school must maintain those records and file with the Secretary those reports relating to the operation of its health professions student loan funds as the Secretary may find necessary to carry out the purposes of the Act and these regualtions. A school must submit required reports to the Secretary within 45 days of the close of the reporting period.

(1) A school which fails to submit a required report for its Federal capital contribution fund within 45 days of the close of the reporting period:

(i) Shall be prohibited from receiving new Federal capital contributions;

(ii) Must place the revolving fund and all subsequent collections in an insured interest-bearing account; and

(iii) May make no loan disbursements.

The above restrictions apply until the Secretary determines that the school is in compliance with the reporting requirement.

(2) A school that fails to submit a complete report within 6 months of the close of the reporting period will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(i) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(ii) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(iii) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to submit a complete report within 6 months of the close of the reporting period must continue to pursue collections and may reapply for participation in the program once it has submitted the overdue report.

(3) The school must also comply with the requirements of 45 CFR Part 74 and section 705 of the Act concerning recordkeeping, audit, and inspection.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0915–0094 and 0915–0115)

7. Section 57.216a is amended by revising paragraph (d) and adding an OMB control number to read as follows:

§ 57.216a Performance standard.

* * * * *

(d) Any school subject to the provisions of paragraph (c)(3) of this section which fails to comply with those requirements will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to comply with the provisions of paragraph (c)(3) of this section must continue to pursue collections and may reapply for participation in the program only when it has attained a default rate of 5 percent or less.

(Approved by the Office of Management and Budget under control number 0915–0115)

[FR Doc. 88–26448 Filed 11–16–88; 8:45 am]

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federal register

Thursday
November 17, 1988

Part IV

Department of Health and Human Services

Public Health Service

42 CFR Part 57

Nursing Student Loan Program; Final Regulations

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Nursing Student Loan Program

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: This rule revises existing regulations governing the Nursing Student Loan (NSL) program to implement amendments made to the Public Health Service Act (the Act) by the Nurse Education Amendments of 1985, to clarify the definition of "default," add a paragraph on reallocation of funds, and establish hearing procedures. Also, this rule will require schools to verify the information provided by the student on the loan application.

EFFECTIVE DATE: These regulations are effective November 17, 1988.

FOR FURTHER INFORMATION CONTACT: Ms. Peggy Washburn, Chief, Program Development Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number: 301 443–4540.

SUPPLEMENTARY INFORMATION: On June 5, 1987, the Department published a Notice of Proposed Rulemaking (NPRM) (52 FR 21486) to incorporate amendments to the NSL program made by Pub. L. 99–92, the Nurse Education Amendments of 1985. The Department received written comments on the NPRM from 8 schools and 1 professional association. The comments and the Department's responses are discussed below. For clarity, the comments and responses are arranged according to the section numbers and headings of the rule to which they pertain.

Section 57.302 Definitions.

Respondents were generally in favor of the statutory definition of "default." However, they objected to the proposal that if a borrower has failed to make an installment payment when due, the school may reasonably conclude that the borrower intends to repay the loan and thus exclude the loan from the default category only in the following situations: (1) If the loan is in forbearance, or (2) if the borrower's repayment schedule has been renegotiated and the borrower is complying with the renegotiated schedule. The respondents believed the proposal to be unnecessarily restrictive and suggested that payments of significant portions of the loan or contacts by a credit counseling organization on behalf of a borrower should also be evidence of a borrower's intent to repay the loan.

The Secretary believes that responsible borrowers who have temporary financial problems, but who plan to fulfill their obligations, will enter into a renegotiation or forbearance agreement, and abide by the agreement. Therefore, the Department has retained this provision as proposed.

Section 57.304 Payment of Federal capital contributions.

One respondent objected to the proposed amendment in § 57.304(c) to reallocate funds returned to the Department under procedures consistent with those used to allocate new Federal capital contributions. This respondent opposed the amended language because it limits schools eligible for the first reallocation of remitted funds to those institutions which established an NSL program after September 30, 1975, and where institutions have more than one NSL program it prohibits the transfer of funds from overfunded programs to those which are underfunded.

The Secretary notes that this provision is consistent with the requirements in section 838(a)(3) of the Act, as amended by Pub. L. 99–92, the Nurse Education Amendments of 1985. That section authorizes the Department to reallocate remitted NSL funds, giving priority to schools which established an NSL fund after September 30, 1975. It does not provide in any way for the transfer of funds from one school to another within an institution with more than one NSL program. However, under the proposed provision, if there are funds remaining after fully funding the priority schools, remaining funds are awarded to other eligible schools. Since the major concern with this provision relates directly to statutory requirements, it has been retained as proposed under the new heading entitled *"Payment of Federal capital contributions and reallocation of funds remitted to the Secretary."*

Section 57.306 Eligibility and selection of nursing student loan applicants.

Eight respondents were generally in favor of verification of financial aid information as proposed in § 57.306(c). However, the respondents expressed strong concerns with the vagueness of the wording of the proposal. The respondents believed that the proposal as presented leaves the imnpression that the school is responsible for verifying all the data on every application for financial aid, which would impose a significant administrative burden on schools. Most of the respondents noted that the Department of Education (ED) imposes a requirement to verify 30 percent of applications for financial aid and suggested that it would be appropriate for the Department to similarly limit the number of applications that must be verified. In addition, it was believed that the 30 percent limit on verification would permit schools to focus verification efforts on those applications with the greatest potential for error. Further, since the Department requires that schools use a need analysis system approved by ED, and many of these systems have incorporated ED's computer edit check system, respondents encouraged the Department to adopt the verification procedures required by ED. Finally, the respondents explained that the adoption of ED's verification system would permit schools to use a single system of verification for all Federal student aid applicants rather than verify one set of data for student aid administered by ED and additional data for the NSL program.

One respondent stated that schools are currently gathering excessive documentation, such as Federal tax information, statements of non-taxable income, household size, etc., while another respondent asked what information should be verified that will assist in skiptracing and whether processing through a nationally approved need analysis system would satisfy the verification requirement.

One respondent recommended that schools be allowed to use their institutions' overall quality control programs where such programs exist to simplify the verification of applicants' information.

The Secretary believes that the school has an obligation to verify, to the best of its ability, the information provided by the student on the loan application. The Secretary does not, however, intend for a school to verify all data on every application for financial aid. The Secretary points out that this provision was not intended to be a new system of verification, but was intended to give schools the authority to require documents which the schools deem appropriate for verification and to require, to the extent possible, that verification be performed using information that is accessible within the school system (e.g., foreign student advisors, registrar's office, etc.). If a school already has in place a system it uses to verify applicants' information, this provision will allow the school to

expand on that system as appropriate for effective verification. In response to the suggestions that the Department adopt ED's verification system and the suggestions in favor of a single verification system for all Federal student aid programs, the Secretary notes that ED's verification system focuses on the need analysis data. Further, the Secretary reiterates that the intent of this provision is to provide broad authority for schools to require from applicants information necessary to verify other parts of the student's application information, such as citizenship and skiptracing information as well as need analysis data. Accordingly, the Department has retained the provision in § 57.306(c) with clarification that a school may require that an applicant provide documentation to support information provided as part of the loan application process. Examples of supporting documentation include, but are not limited to: Photocopies of the parent's, student's and spouse's Federal income tax forms with original signatures for the most recent tax year (or certification that no Federal income tax return was filed); tax returns that are certified as having been received by the Internal Revenue Service; certified copies of birth certificates; copies of alien registration cards; or other documentation that the school considers necessary to help assure that the information on the loan application is correct.

Section 57.315 Records, reports, inspection, and audit. and section 57.316a Performance standard.

Respondents were generally in favor of the revisions to paragraph (a) of § 57.315 and paragraph (d) of § 57.316a which allow a school to request a hearing with an administrative law judge prior to being terminated. However, they opposed the procedures for determination by the Department of whether a hearing is warranted because they believed that the procedures would deny due process. The respondents commented that allowing the Secretary to dismiss requests for hearings if the basis for the requests were judged to be frivolous or inconsequential runs counter to the essential purpose of a hearing and that any determination that the issues in dispute are frivolous or inconsequential should be made by the administrative law judge. One of the respondents commented that the Secretary's judgment regarding the decision to accept or deny the hearing is a conflict of interest, since the Secretary would be a party in the hearing proceedings and suggested authorizing a third party to determine if in fact that the statement of factual issues is frivolous or inconsequential.

One respondent took exception to the proposed requirement that hearings be held in the Washington, DC metropolitan area. The respondent stated that the requirement will limit many schools' opportunity for adequate representation during termination proceedings and recommended that there be regional hearings instead.

The Department emphasizes that the intent of the proposal is to assure that the hearing process is administered as efficiently and cost-effectively as possible for the schools and the Department, and concludes that it is consistent with both due process and legislative requirements. We note that under administrative hearing procedures, an administrative law judge can rule only on issues in dispute. Existing regulations have the effect of law and are not subject to dispute through a hearing before an administrative law judge.

A determination of what constitutes a factual issue in dispute is directly tied to the reporting requirements in § 57.315 or the performance standard in § 57.316a of the regulations. An example of a factual issue in dispute would be a case where a school alleges facts which, if true, would undercut the Department's determination that the school has not met the requirements of the performance standard provision. Such a case would involve a material, factual issue in dispute that would be appropriate for resolution through a hearing by an administrative law judge.

The proposed procedure for determining whether a hearing must be conducted is essentially an administrative "summary judgment" proceeding. It is a well-settled principle that an agency has the authority to deny a hearing when it appears from the request that no substantial issue of fact is in dispute. *Weinberger v. Hynson, Westcott & Dunning*, 412 U.S. 609 (1973); *United States v. Storer Broadcasting Co.*, 351 U.S. 192, 202–205 (1956); *Pineapple Growers Association of Hawaii v. F.D.A.*, 673 F.2d 1083 (9th Cir. 1982).

Section 746 of the Act which requires the Secretary to provide an opportunity for a hearing does not constitute a bar to such summary judgment. When it is apparent from a request that there are no substantive issues in dispute, no purpose could be served by holding a public hearing. In upholding a similar summary judgment provision promulgated by the Food and Drug Administration, the Eighth Circuit articulated the rationale for the provision as follows:

> * * * The hearing is solely for the purpose of receiving evidence "relevant and material to the issues raised by such objections." Certainly, then the objections, in order to be effective and necessitate the hearing requested, must be legally adequate so that, if true, the order complained of could not prevail. The objections must raise "issues." The issues must be material to the question involved; that is, the legality of the order attacked. They may not be frivolous or inconsequential. Where the objections stated and the issues raised thereby are, even if true, legally insufficient, their effect is a nullity and no objections have been stated. Congress did not intend the governmental agencies created by it to perform useless or unfruitful tasks. If it is perfectly clear that the petitioner's appeal for a hearing contains nothing material and the objections stated do not abrogate the legality of the order attacked, no hearing is required by law. *Dyestuffs and Chemicals, Inc., v. Flemming*, 271 F.2d 281, 286 (8th Cir. 1959), *cert. denied* 362 U.S. 911 (1960).

With regard to the recommendation for regional hearings, the Secretary continues to believe that the location of hearings must be limited to the Washington, DC, metropolitan area due to constraints in departmental resources. However, the Secretary notes that where the school is unable to attend a hearing in the Washington, DC, metropolitan area, it may be possible for the administrative law judge to conduct the hearing by mail.

Finally, the Secretary believes that clarification is necessary in determining what constitutes a timely request for a hearing. Section 842 of the Act provides a 30-day period after receipt of the written notice of the Secretary's intent to terminate within which the school must request a hearing. The NPRM proposed an expansion of this period to 90 days to allow additional time for a school to prepare and submit material, factual issues in dispute to warrant a hearing. The Department has clarified the time frame in the final regulations. The regulations state that the Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must, within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing.

Regulatory Flexibility Act and Executive Order 12291

The Department believes that the resources required to implement the

proposed requirements in these regulations are minimal. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of NSL schools.

The Department has also determined that this rule is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required. In addition, the rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291.

Paperwork Reduction Act

Sections 57.315 and 57.316a contain information collection requirements which have been approved by the Office of Management and Budget under section 3507 of the Paperwork Reduction Act of 1980 and assigned control number 0915–0115.

List of Subjects in 42 CFR Part 57

Dental health, Grant programs-health, Education of disadvantaged, Health facilities, Educational facilities, Health professions, Educational study programs, Loan programs-health, Emergency medical services, Medical and dental schools, Grant programs-education, Scholarships and fellowships, Student aid.

Accordingly, Subpart D of 42 CFR Part 57 is amended as follows:

Dated: August 8, 1988.

Robert E. Windom,

Assistant Secretary for Health.

Approved: September 6, 1988.

Otis R. Bowen,

Secretary.

(Catalog of Federal Domestic Assistance, No. 13.364, Nursing Student Loan Program)

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Subpart D—Nursing Student Loans

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

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, 67 Stat. 631(42 U.S.C. 216); secs. 835–842, Public Health Service Act, 78 Stat. 913–916, as amended, 99 Stat. 397–400, 536–537 (42 U.S.C. 297a–i).

2. Section 57.302 is amended by revising the definition for "default" as follows:

§ 57.302 Definitions.

* * * * *

"Default" means the failure of a borrower of a loan made under this subpart to make an installment payment when due, or comply with any other term of the promissory note for such loan, except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy, the borrower's repayment schedule has been renegotiated and the borrower is complying with the renegotiated schedule, or the loan is in forbearance.

* * * * *

3. Section 57.304 is amended by revising the heading of the section and adding a new paragraph (c) as follows:

§ 57.304 Payment of Federal capital contributions and reallocation of funds remitted to the Secretary.

* * * * *

(c) *Reallocation of funds remitted to the Secretary.* (1) All funds from a student loan fund established under this subpart which are remitted to the Secretary in any fiscal year shall be available for allotment under this subpart, in the same fiscal year and the succeeding fiscal year, to eligible nursing schools. In making these allotments, the Secretary shall give priority to nursing schools which established a student loan fund under this subpart after September 30, 1975. The Secretary will make payments to eligible schools at a time determined by him or her, according to the procedures indicated in paragraphs (c)(2) and (c)(3) of this section.

(2) *Eligible schools which established a nursing student loan fund after September 30, 1975.* The Secretary will make awards first to those eligible schools that established a nursing student loan fund after September 30, 1975. If the total of the amounts requested for any fiscal year by these schools exceeds the amount of funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller:

(i) The amount requested in the application, or

(ii) An amount which bears the same ratio to the total amount of returned funds determined by the Secretary at the time of payment to be available for that fiscal year for the Nursing Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in these eligible schools during that year.

Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, with whatever adjustments may be necessary to prevent the total paid to any school from exceeding the total requested by it.

(3) *Eligible schools which established a nursing student loan fund prior to October 1, 1975.* If there are funds remaining after making awards as specified by paragraph (c)(2) of this section, the Secretary will make awards to eligible schools which established a nursing student loan fund prior to October 1, 1975. If the total of the amounts requested for any fiscal year by these schools exceeds the amount of funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller:

(i) The amount requested in the application, or

(ii) An amount which bears the same ratio to the total amount of returned funds determined by the Secretary at the time of payment to be available for that fiscal year for the Nursing Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in these eligible schools during that year.

Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, with whatever adjustments may be necessary to prevent the total paid to any school from exceeding the total requested by it.

4. Section 57.306 is amended by adding a new paragraph (c) as follows:

§ 57.306 Eligibility and selection of nursing student loan applicants.

* * * * *

(c) *Verification of loan information.* The school must verify, to the best of its ability, the information provided by the student on the loan application. To comply with this requirement, a school may require that a student provide, for example: Photocopies of the parents', student's, and spouse's Federal income tax forms with original signatures for the most recent tax year (or certification that no Federal income tax return was filed); tax returns that are certified as having been received by the Internal Revenue Service; or other documentation that the school considers necessary to help assure that information on the loan application is correct.

5. Section 57.315 is amended by revising paragraph (a)(1) and the OMB control number statement as follows:

§ 57.315 Records, reports, inspection, and audit.

(a) * * *

(1) Each Federal capital contribution and Federal capital loan is subject to the condition that the school must maintain those records and file with the Secretary those reports relating to the operation of its nursing student loan funds as the Secretary may find necessary to carry out the purposes of the Act and these regulations. A school must submit required reports to the Secretary within 45 days of the close of the reporting period.

(i) A school which fails to submit a required report for its Federal capital contribution fund within 45 days of the close of the reporting period:

(A) Shall be prohibited from receiving new Federal capital contributions;

(B) Must place the revolving fund and all subsequent collections in an insured interest-bearing account; and

(C) May make no loan disbursements.

The above restrictions apply until the Secretary determines that the school is in compliance with the reporting requirement.

(ii) A school that fails to submit a complete report within 6 months of the close of the reporting period will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(A) The request for a hearing is untimely (ie., fails to meet the 30-day requirement);

(B) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(C) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to submit a complete report within 6 months of the close of the reporting period must continue to pursue collections and may reapply for participation in the program once it has submitted the overdue report.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0915–0047 and 0915–0115)

6. Section 57.316a is amended by revising paragraph (d) and adding an OMB control number as follows:

§ 57.316a Performance standard.

* * * * *

(d) Any school subject to the provisions of paragraph (c)(3) of this section which fails to comply with those requirements will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to comply with the provisions of paragraph (c)(3) of this section must continue to pursue collections and may reapply for participation in the program only when it has attained a default rate of 5 percent or less.

(Approved by the Office of Management and Budget under control number 0915–0115).

[FR Doc. 88–26449 Filed 11–16–88; 8:45 am]

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Thursday
November 17, 1988

Part V

Environmental Protection Agency

40 CFR Part 253

Guideline for Federal Procurement of Retread Tires; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 253

[SWH-FRL FR 3467-8]

Guideline for Federal Procurement of Retread Tires

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is issuing a guideline for Federal procurement of retread tires. The guideline implements section 6002(e) of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), which requires EPA (1) to designate items which can be produced with recovered materials and (2) to prepare guidelines to assist procuring agencies in complying with the requirements of section 6002. Once EPA has designated a procurement item, section 6002 requires that any procuring agency using Federal funds to procure that item must purchase such items containing the highest percentage of recovered materials practicable.

The guideline issued today designates tires as products for which the procurement requirements of section 6002 apply. The guideline also contains recommendations for implementing the section 6002 procurement requirements as well as the requirements for revising specifications.

EFFECTIVE DATES: The guideline is effective November 17, 1988. Procuring agencies must implement the requirements of RCRA section 6002 with respect to procurement of tires according to the following schedule:

Completion of specification revisions and development of affirmative procurement programs: November 17, 1989.

Commencement of procurement of tires in accordance with RCRA section 6002: November 17, 1989.

ADDRESS: The public docket is available for viewing in Room LG-100, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. To review docket materials, the public must make an appointment by calling (202) 475-9327. Materials may be copied from any regulatory docket at a cost of 15 cents per page. Copying totaling less than $15 is free.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free, at (800) 424-9346 or at (202) 382-3000. For technical information, contact William Sanjour, Office of Solid Waste, OS-330, U.S. EPA, 401 M Street, SW., Washington, DC 20460, telephone: (202) 382-4502.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority

This guideline is issued under the authority of sections 2002(a) and 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a) and 6962.

II. Introduction

A. Purpose and Scope

The Environmental Protection Agency (EPA) today is issuing one in a series of guidelines designed to encourage the use of products containing materials recovered from solid waste. section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA or the Act), as amended, 42 U.S.C. 6962, states that if a Federal, State, or local procuring agency uses Federal funds to procure certain designated items, such items must be composed of the highest percentage of recovered materials practicable. EPA is required to designate these items and to prepare guidelines to assist procuring agencies in complying with the requirements of Section 6002.

EPA issued the first of these guidelines, for cement and concrete containing fly ash, on January 28, 1983 (48 FR 4230; 40 CFR Part 249). EPA issued a guideline for paper and paper products containing recovered materials on October 6, 1987 (52 FR 37293; 40 CFR Part 250) with concurrently proposed amendments (52 FR 37335). A revised final paper guideline was promulgated on June 22, 1988 (53 FR 23546). EPA promulgated a final guideline for lubricating oils containing re-refined oil on June 30, 1988 (53 FR 24699; 40 CFR Part 252). A guideline for asphalt materials containing ground tire rubber was proposed on February 20, 1986 (51 FR 6202), a guideline for retread tires was proposed on May 2, 1988 (53 FR 15624), and a guideline for building insulation products was proposed on August 2, 1988 (53 FR 29165). Today, EPA is promulgating the final retread tires guideline.

This preamble describes the requirements of section 6002, explains the basis for designating tires as a procurement item subject to section 6002, discusses EPA's recommendations for implementing section 6002 with respect to procurement of tires, and responds to comments on the proposed guideline. It also provides information regarding the price, availability, and performance of retread tires.

B. Requirements of Section 6002

Section 6002 of RCRA, "Federal Procurement," directs all procuring

agencies which use Federal funds to procure items composed of the highest percentage of recovered materials practicable, considering competition, availability, technical performance, and cost. Two factors trigger this requirement. First, EPA must designate the items to which this requirement applies. Second, the requirement only applies when the purchase price of the item exceeds $10,000 or when the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was $10,000 or more.

Section 6002(c) requires procuring agencies to obtain from suppliers an estimate of and certification regarding the percentage of recovered materials contained in their products.

Federal agencies responsible for drafting or reviewing specifications for procurement items were required under section 6002(d)(1) to review and revise the specifications by May 8, 1986 in order to eliminate both exclusions of recovered materials and requirements that items be manufactured from virgin materials. In addition, within one year after the date of publication of a procurement guideline by EPA, the Federal agencies must revise their specifications to require the use of recovered materials in such items to the maximum extent possible without jeopardizing the intended end use of the item.

Section 501 of the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616) added paragraph (i) to section 6002 of RCRA. This provision requires procuring agencies to develop an affirmative procurement program for purchasing items designated by EPA. The program must assure that items composed of recovered materials will be purchased to the maximum extent practicable, be consistent with applicable provisions of Federal procurement law, and contain at least four elements:

(1) A recovered materials preference program;

(2) An agency promotion program;

(3) A program for requiring estimates, certification, and verification of recovered material content; and

(4) Annual review and monitoring of the effectiveness of the procurement program.

Under section 6002(e), EPA is required to issue guidelines for use by procuring agencies in complying with the requirements of section 6002. The EPA guidelines must designate those items which can be produced with recovered materials and whose procurement by procuring agencies will fulfill the objectives of section 6002. They also must provide recommendations for procurement practices and information on availability, relative price, and performance.

Section 6002 is designated to promote materials conservation and thereby to reduce the quantity of materials in the solid waste stream. By using products containing recovered materials, Federal procurement can demonstrate their technical and economic viability. In addition, Federal procurement guidelines can provide guidance to state and local governments interested in procuring products containing recovered materials, and Federal procurement of such products is expected to result in increased procurement of them by these other groups as well.

C. Rationale for Selecting Tires for a Procurement Guideline

In the preamble to the fly ash guideline, EPA established criteria for the selection of procurement items for which guidelines will be prepared. However, section 6002(e) of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984, specifically directs the EPA Administrator to issue procurement guidelines for tires. The portion of the Conference Committee report describing the amendments to section 6002 explains that the term "tires" includes "the use of retreaded tires." [H.R. 2867 Conference Report, p.1, Cong. Rec. H11138 (October 3, 1984).] Since Congress already has selected tires as an appropriate subject for a procurement guideline, it is not necessary for EPA to demonstrate that tires satisfy the EPA criteria for selecting procurement items.

However, commenters on the proposed retread tires guideline stressed to EPA that by providing information on the environmental benefits of using retread tires, EPA would help to convince buyers to purchase retread tires. EPA agrees and is providing the following summary of information on tires as a solid waste disposal problem.

In 1986, 220 million tires were discarded. Passenger car and light truck tires account for approximately 80 percent of the total number of tires scrapped, the remainder being bus, truck, and off-road tires (e.g., construction equipment and agricultural equipment tires). While scrap tires often can be retreaded, sold as used tires, or otherwise reused or recycled, they generally wind up in landfills, tire stockpiles, and along roadsides or waterways.

Tires cannot be easily managed in landfills. They do not biochemically degrade and tend to rise or float to the surface after burial, create voids in the landfills, and provide a home for rodents and insects. Some landfills have equipment to shred or slice tires prior to burial, but shredding is a costly process. As a result, many landfills will not accept tires at all or charge additional tipping fees for tires, often at a level high enough to discourage tires from being brought to the facility.

Scrap tires often are disposed of on private property in tire stockpiles. The tire industry estimates that there are between 2 and 3 billion tires in piles scattered throughout the United States and that these piles are increasing by 150 to 200 million tires per year. Efforts to regulate or to eliminate these piles have been largely unsuccessful. While some of these tires will be recycled into crumb rubber or used as fuel, the majority of the tires have no known use.

The tire piles pose a serious threat to both public health and the environment as a home for rodents and insects and as fuel for fires. For example, a 4 million tire pile ignited in Winchester, Virginia in 1983. It took eight months and the combined efforts of the Federal, State, and county governments to contain the fire, which ultimately burned itself out. EPA alone spent $1.2 million of Superfund monies to contain and remove the oily residue generated by the burning tires.

Thus, it is desirable to encourage a reduction in used tire disposal, and tire retreading is one means of accomplishing this end.

D. Background Information on Tire Retreading

The retreading industry was started in the 1910s. Today there are approximately 2,600 retreading plants in the United States. They retread tires for aircraft (commercial and military), agricultural equipment, automobiles, light- and heavy-duty trucks, buses (school and mass transportation), off-road, vehicles (i.e., earthmovers, graders, loaders, and dozers) and racing cars.

Tire retreading is the application of a new tread to a worn tire. The tire retreading process involves the following steps:

- Inspection and selection of tires suitable for retreading.
- Removal of the old tire tread through a buffing process.
- Repair of the tire casing, if necessary.
- Application of rubber cement.
- Application of a new tread.
- Curing.
- Inspection of the retreaded tire.

There are two methods for applying a new tread: the mold-cured process, in

which an uncured rubber tread is applied, and the pre-cured process, in which a pre-cured, pre-molded rubber tread is applied.

During the mold-cured process, uncured (i.e., nonvulcanized) rubber is applied to the tire. The tire then is placed in a mold to form the tread pattern, the tire is internally pressurized, and the mold is heated. The combination of heat and air pressure applied for an appropriate period of time vulcanizes the rubber and bonds it to the tire body.

During the pre-cure process, a thin layer of uncured rubber (the bonding layer) is applied to the tire body. The pre-cured, pre-molded rubber tread is applied over the bonding layer. The tire is then placed in an autoclave to bond the tread to the tire body. Again, the combination of heat and air pressure applied over time vulcanizes the bonding layer and bonds it and the tread to the tire body.

Two U.S. manufacturers use a bead-to-bead process, which involves replacing the sidewall and shoulder rubber in addition to the tread. These processes, which are also known as remolding or remanufacturing, are used to manufacture passenger car tires and ligh truck tires.

A properly retreaded tire can provide the same mileage as a new tire, thus substantially extending a tire's useful life. Tires also can be retreaded multiple times. Truck tires, for example, are often retreaded two or three times.

E. Current Retread Tire Procurement Procedures

Procuring agencies can procure either a service—tire retreading—or a product—retread tires. Agencies currently use different methods for procuring retreading services than for procuring retread tires as a product. These approaches are described below.

1. *Procurement of Services.* The U.S. General Services Administration (GSA) awards contracts for tire retreading services. Retreading contracts are awarded by the GSA regional offices. The regional offices then issue a supply schedule, Federal Supply Schedule No. 753II, Tire Retreading and Repairing, identifying the vendors of tire retreading services within the GSA region. The individual Federal agencies [1] can bring their tires to these vendors for retreading. The vendor retreads the tire and returns it to the procuring agency. If the tire is not retreadable (e.g., the casing is damaged), the vendor returns it to the agency for disposal.

Vendors retread tires in accordance with GSA Specification ZZ–T–441, which details the retreading procedures to be followed, including inspection of the worn tire casing for suitability for retreading, and inspection of the finished product. It applies to both the mold-cured and pre-cured retreading processes and to tire repairs. It covers four groups of tires: (1) Passenger car and cycles, (2) light truck and high speed industrial, (3) truck, bus and trailer, and (4) special service (including military, agricultural, off-highway, and slow speed industrial).

The specification also requires that the retreader receive a mandatory pre-award facility certification of approval. According to the specification, there are two acceptable approaches that a retreader may use to have his facility certified: either a GSA inspector can perform the retreading facility inspection or the retreader can provide evidence that within the previous 12 months the facility has received an approved certification from a nationally recognized retread tire trade association. While the specification does not identify any particular association, EPA knows of two such organizations, the National Tire Dealers and Retreaders Association (NTDRA) and the American Retreaders Association (ARA).

With the exception of the Department of Defense, very few Federal government agencies have central motor pools to maintain and repair vehicles. Nor are tires stockpiled in Federal government warehouses or depots. Instead, replacement tires are obtained from the commercial marketplace.

For example, replacement tires for GSA Interagency Fleet Management System vehicles are, for the most part, obtained from retail tire distribution outlets. In a limited number of locations where GSA has in-house maintenance and repair facilities, a small number of replacement tires may be stored. Operators of GSA fleet vehicles contact one of eleven GSA maintenance control centers for authorization of maintenance and repairs, including tire replacement. GSA automotive technicians, using established criteria on minimum tread depth, and in conjunction with other relevant information provided by the operator, make the decisions on tire replacement. Retread tires may be purchased depending on the type of vehicle (non-passenger carrying), the intended vehicle use, cost, and the availability of retread tires through the retail distribution system.

GSA has issued two policy statements regarding use of retread tires, which provide vehicle operators with some criteria to use in making the decision to procure a new tire or a tire retreading service [2] GSA does not monitor procuring agencies' use of the retreading contracts, however.

Several states also procure tire retreading services. Some states use prison retreading facilities, while others use contractors. For example, the State of Vermont procures retreading services for truck and aircraft tires. The state uses a specification which identifies the retreading process to be used (mold-cured), retread size, and tread design. It requires that the retreader use the state's casings. The state invites bids to supply retreading services in accordance with the specification and awards one-year contracts with two options to renew.

Vermont has a central motor pool which warehouses replacement parts, including a mix of new and retreaded tires. The motor pool staff are trained in tire inspection procedures. Each tire casing is inspected to determine whether it can be retreaded; if it is suitable for retreading, it is sent to the contract retreader.

2. *Procurement of Products.* Several methods can be used to procure retread tires as products. They generally are purchased through open competition (although the Federal Government does not use this method of procurement for retread tires). The procuring agency invites bids from both vendors of new tires and vendors of retread tires. The contract is awarded to the lowest-priced responsible bidder.

One method is to invite bids to sell a mix of new and retread tires, in which agencies identify particular types or sizes of tires that they wish to purchase as retreads. Vendors then bid against the mixed list.

Another method of procuring retread tires as a product is through mileage guarantees. The tire specification requires the contractor to guarantee an average mileage and to submit a

[1] The Department of Defense uses Schedule No. 753II for retreading of tactical equipment and heavy-duty truck tires, as well as for administrative and light-duty vehicle tires.

[2] GSA's written policies provide that truck, bus and heavy equipment tires should be examined for retreadability. Tires of 6 ply or greater with a minimum remaining tread depth of at least 3/32" should be submitted to a government retread contractor for possible retreading. Retreads are recommended for use on low speed (25 miles per hour or less) on- and off-road vehicles. GSA recommends that retreads not be used on steering axles of high speed, over-the-road vehicles. Further, GSA policies prohibit use of retreads on passenger carrying vehicles or on the steering axle of any Interagency Fleet Management Vehicle used on public highways but allows use of retreads on the rear wheels of large trucks, truck tractors, trailers, and off-road vehicles.

performance bond. The price of each tire is divided by the guaranteed mileage to obtain a guaranteed cost per mile. If the tire does not perform for the guaranteed mileage, the cost per mile is used to adjust the price of the tire. The difference between the actual tire price and the adjusted price is the amount the contractor must reimburse the procuring agency. Both vendors of new tires and vendors of retread tires can submit bids using this type of procurement specification.

III. Contents of the Guideline

This portion of the preamble explains each section of the final guideline.

A. Purposes and Scope

The purposes of this guideline are (1) to designate tires as an item subject to the procurement requirements of section 6002 of RCRA and (2) to recommend procedures for complying with section 6002.

This guideline applies to purchases of the following types of tires: Passenger car tires, light- and heavy-duty truck tires, high speed industrial tires, bus tires, and special service tires (including Military, agricultural, off-the-road, and slow speed industrial). Commenters questioned several exclusions from the scope of the guideline as discussed below.

1. *Airplane Tires.* The guideline does not apply to airplane tires. In the proposed guideline, EPA explained that because agencies that procure airplane tires already use retread tires extensively, it did not believe that designating airplane tires would result in increased use of retreaded airplane tires. EPA further stated that when Congress directed EPA to issue a procurement guideline for tires, it intended EPA to focus on automobile, truck, and other vehicle tires because they are a significant solid waste problem; the bulk of the tires in the solid waste stream are automobile tires and, to a lesser extent, truck and other vehicle tires.

Several commenters stated that EPA should include airplane tires within the scope of the guideline. These commenters argued that airplane tires might not be retreaded to the maximum extent practicable, that including them in the guideline would insure their continued use, and that there is no data showing that airplane tires are not a significant solid waste disposal problem. None of the commenters submitted data supporting their arguments.

EPA has data, which has been placed in the docket for this guideline, demonstrating that airplane tires are not a significant solid waste disposal problem. In addition, EPA believes that if an item is already extensively recycled, so that an EPA procurement guideline will not have a significant impact on recycling, it is preferable to use EPA's resources to develop guidelines which will have a significant impact on recycling. For these reasons, EPA is not including airplane tires within the scope of the final guideline issued today. If EPA receives information indicating that issuing a guideline would have an impact on retreading of airplane tires or that the volume of airplane tire retreading is decreasing, then EPA will consider the feasibility of a guideline for this item.

In the proposed guideline, § 253.3(d)(3) provided that the guideline did not apply to purchases of airplane tires. Since exclusion of these tires is really a scope issue, EPA has placed the exclusions in § 253.2 of the final guideline and deleted § 253.3(d)(3).

2. *Original Equipment Tires.* In the proposed guideline, EPA noted that RCRA section 6002(i) provides that affirmative procurement programs should be consistent with applicable provisions of Federal procurement law, that Federal procurement law requires Federal procuring agencies to purchase commercial products and to use commercial distribution systems whenever such products or systems are adequate to meet the government's needs, and that new vehicles are purchased in accordance with this requirement. Because new vehicle manufacturers are required by National Highway Traffic Safety Administration (NHTSA) regulations to use new tires (49 CFR 571.110 and 571.120), the vehicles purchased by Federal procuring agencies will be equipped with new tires. Therefore, EPA concluded that requiring retread tires would be contrary both to the NHTSA regulations and the FAR, and thus contrary to the requirement of RCRA section 6002(i)(1) that procuring agencies must comply with applicable Federal laws.

Several commenters questioned EPA's conclusion. They maintained that the NHTSA regulations do not require the use of new tires on new motor vehicles but, rather, are performance standards which could be met equally well by retread tires or new tires. EPA has reexamined this issue and reconfirmed that the NHTSA requirements foreclose EPA from including original equipment tires on new motor vehicles within the scope of the guideline.

The NHTSA regulations require that new motor vehicles must meet either Federal Motor Vehicle Safety Standard (FMVSS) 109, "New Pneumatic Tires—Passenger Cars." or FMVSS No. 119, "New Pneumatic Tires for Vehicles Other Than Passenger Cars." Discussions with NHTSA verified EPA's earlier conclusion that these standards require that new passenger vehicles be equipped with new tires and do not allow the use of retread tires. It is NHTSA's position that manufacturers who supplied new motor vehicles with retread tires would be in violation of the National Traffic and Motor Vehicles Safety Act of 1966 and consequently subject to fines.

RCRA section 6002(d)(1) requires Federal agencies with the responsibility for drafting "specifications for procurement items" to eliminate from the specifications any exclusion of recovered materials and any requirement that items be manufactured from virgin material. A commenter has suggested that the NHTSA standards are discriminatory specifications prohibited by section 6002(d). EPA, however, has determined that the NHTSA standards are not procurement specifications. NHTSA promulgated its Federal Motor Vehicle Safety Standards under express Congressional direction. Safety, not procurement, is the "overriding consideration in the issuance of standards" under the National Traffic and Motor Vehicle Safety Act of 1966. [Senate Rep. No. 1301, 89th Cong., 2d Sess. 6 (1966).]

Certain commenters submitted evidence that some retread tires could meet the NHTSA standards prescribed for new tires. EPA urges these commenters to petition NHTSA to revise its regulations so as to allow a manufacturer to equip new motor vehicles with qualifying retread tires. If the NHTSA standards are revised, Federal agencies which write procurement specifications must then assure that these specifications meet the requirements of section 6002(d) and do not exclude the procurement of motor vehicles equipped with retread tires. However, until NHTSA standards permit this, EPA will not, under section 6002(i), recommend to procuring agencies an affirmative procurement program which would direct them to revise their motor vehicles specifications to require retread tires on new vehicles.

Because the NHTSA standards ban the use of retread tires on new passenger vehicles, it is unnecessary for EPA to exclude tires on new cars from the guideline. Moreover, in the event the NHTSA standards are changed so as to permit the use of retread tires on new motor vehicles, the exclusion would be inappropriate. Therefore, § 253.3(d)(1) of the proposed guideline has been deleted

in the final guideline, and § 253.2, Designation, no longer specifically excludes original equipment tires.

3. *Tires Manufactured With Recovered Rubber.* A commenter stated that the guideline should apply to procurement of tires manufactured with recovered rubber. EPA plans to study the feasibility of a procurement guideline for this item and will consider issuing a separate guideline when the feasibility study is completed.

B. Applicability

Many of the requirements of section 6002 apply to "procuring agencies," which is defined by RCRA section 1004(17) as "any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract." Under section 6002(a), the procurement requirements apply to any purchase by a procuring agency of an item costing $10,000 or more or when the procuring agency purchased $10,000 worth of the item or of a functionally equivalent item during the preceding fiscal year. Both direct and indirect purchases are covered.

1. *Procuring Agencies.* Commenters asked EPA to include in this guideline the discussion of the applicability of section 6002 to procuring agencies that was included in EPA's other procurement guidelines. EPA agrees that the discussion is germane to this guideline.

The statutory definition of procuring agency identifies three types of agencies: (1) Federal agencies, (2) State or local agencies using appropriated Federal funds, and (3) contractors. Federal agencies should note that under this definition, the requirements of section 6002 apply to them whether or not *appropriated* Federal funds are used for procurement of items designated by EPA. Section 253.3(a)(2) has been added to the final guideline to clarify this point.

In addition, the requirements of section 6002 apply to each Federal agency as a whole; see § 253.3(a)(2)(iii) of the final guideline. This point is particularly important in determining whether the $10,000 threshold has been reached. For example, GSA, as a whole, purchases more than $10,000 worth of tires during each fiscal year. Therefore, the requirements of section 6002 will apply to all of GSA's tire procurements, including procurements by individual regional offices, even if a regional office procured less than $10,000 worth of tires.

2. *Direct Purchases.* This guideline applies to tire purchases made directly by a procuring agency or by a government contractor for use in government vehicles and equipment. Direct purchases by a contract would include purchases for maintaining a government fleet.[3]

A commenter suggested that EPA provide guidance, such as recommending use of ratios, to contractors who do work which is funded by commingled Federal and non-Federal funds. Nothing in section 6002 and its legislative history suggests that Congress contemplated use of ratios to determine the applicability of section 6002 to procuring agencies, including contractors. In fact, Congress simply stated that the procurement requirements apply to any purchase or acquisition. EPA further believes that the use of ratios would be unnecessarily burdensome. EPA has concluded that determining the applicability of section 6002 to a procuring agency in a given instance should be simple and direct. If a State or local procuring agency or a contractor is using Federal funds, even if such funds are commingled with non-Federal funds, then the requirements of section 6002 apply. See § 253.3(a)(2)(ii) of the final guideline.

3. *Indirect Purchases.* The definition of "procuring agency" in RCRA section 1004(17) makes it clear that the requirements of section 6002 apply to "indirect purchases," i.e., purchases by a State or local agency using appropriated Federal funds or by contractors. Thus, the guideline applies to tire purchases meeting the $10,000 threshold made by States and their localities or their contractors, subcontractors, grantees, or other persons which are funded by grants, loans, or other forms of disbursements of monies from Federal agencies.

In the proposed guidelines, EPA stated that the guideline does not apply to tire purchases by State and local procuring agencies or contractors if they are unrelated to or incidental to the Federal funding, i.e., not the direct result of the grant, loan, or funds disbursement. Several commenters disagreed with EPA's interpretation, noting that RCRA section 6002(a) states simply that section 6002 applies to "*any* purchase or acquisition of a procurement item" (emphasis added) when the $10,000 threshold is reached. These commenters raise an issue of general applicability to all the procurement guidelines. The Agency plans further review and consideration of this issue and will publish detailed guidance on this subject within the near term. However, at this time, EPA is retaining the proposed language (in § 253.3(c) of the final guideline) which provided that the guideline did not apply to purchases that were not the direct result of a Federal grant, loan, or funds disbursement.

EPA solicited comments on whether this guideline should exempt block grants from the section 6002 procurement requirements or exempt block grants only when it is not possible to account separately for such funds. A commenter suggested that EPA require all Federal grants to have specific line item allocations for any item designated under section 6002(e) or that procuring agencies apply the ratio of Federal to non-Federal funding to each individual product category covered by a procurement guideline. EPA believes that both of these suggestions go beyond the scope of RCRA section 6002. Section 6002(e) clearly gives EPA authority to recommend guidelines but not to require compliance with them. As discussed above, nothing in section 6002 and its legislative history suggest that Congress contemplated use of ratios to determine the applicability of the procurement requirements to procuring agencies.

Thus, EPA believes that the guidelines should apply whenever Federal monies, including block grants, are used, whether or not they are commingled with non-Federal funds. In other words, if any Federal funds are used, then the requirements of section 6002 apply.

4. *The $10,000 Threshold.* RCRA section 6002(a) provides that the requirements of section 6002 apply (1) when the purchase price of an item exceeds $10,000 or (2) when the quantity of such items or of functionally equivalent items purchased during the preceding fiscal year was $10,000 or more. Section 253.3(a)(1) of the guideline provides that procuring agencies *should* consider all sizes and types of tires to be functionally equivalent items. Thus, when determining if the $10,000 threshold has been reached, procuring agencies should tally the cost of all tires purchased, rather than each size or category of tire (e.g., truck tires, automobile tires) purchased. EPA believes that restricting the applicability of section 6002 based upon a narrow, technical definition of functional equivalency would limit the effectiveness of the guideline in meeting the objectives of RCRA, because an agency may purchase less than $10,000 of each size or category of tire. EPA

[3] The term "government fleet" includes (1) vehicles owned by a procuring agency and operated or maintained on behalf of the agency by a contractor, (2) vehicles owned by a contractor or a third party and leased to or used by a procuring agency, and (3) vehicles owned by a contractor and used by the contractor with respect to work performed under contract to a procuring agency.

recommended a similar approach in the guideline for procurement of lubricating oil containing re-refined oil, 53 FR 24705 (June 30, 1988).

A commenter stated that EPA should *require* procuring agencies to consider all sizes and types of tires to be functionally equivalent, noting that it is EPA's job to flesh out the statutory requirements. While EPA agrees that it has the authority to flesh out the statutory requirements, such authority is found in RCRA section 6002(e)(2), which provides that EPA guidelines shall "set forth *recommended* practices" (emphasis added). The commenter has failed to cite any statutory provision which empowers EPA to require a given practice. In addition, the commenter is incorrect in stating that EPA's final paper and lubricating oils guidelines *required* a procuring agency to consider its paper or lubricating oil purchases as functionally equivalent for purposes of determining the guidelines' applicability; both guidelines state that specified items should, not must, be considered to be functionally equivalent. (See 53 FR 23551, June 22, 1988, and 53 FR 24705, June 30, 1988.)

EPA noted in the preamble to the lubricating oil procurement guideline that while RCRA section 6002(a) provides that Section 6002 and EPA guidelines apply whenever a procuring agency purchases $10,000 or more worth of an item in the course of the preceding fiscal year, it does not provide that the procurement requirements are triggered when the quantity of items purchased *during the current fiscal year* is $10,000 or more (emphasis added) (53 FR 24705, June 30, 1988). In other words, Congress did not intend to require procuring agencies to keep a running tally during the current year of procurements of items designated by EPA. Section 6002 clearly sets out a two-step procedure for determining whether the $10,000 threshold has been reached. First, a procuring agency must determine whether it purchased $10,000 worth of an item or of functionally equivalent items during the preceding fiscal year. Second, if a procuring agency did not procure $10,000 worth of an item during the preceding fiscal year, it is not subject to section 6002 unless it makes a $10,000 purchase of the item in the current fiscal year. The requirements of section 6002 then apply to the $10,000 purchase of the item; to all subsequent purchases of the item made during the current fiscal year, regardless of size; and to all procurements of the item made in the following fiscal year (*Ibid.*).

However, it has been brought to EPA's attention that the regulation portion of the lubricating oil, paper, and retread tires procurement guideline do not reflect this interpretation. EPA has corrected § 253.3(a)(1) in the final guideline issued today and will be issuing corrections to the lubricating oil and paper guidelines to remove any ambiguity on this issue.

Finally, EPA notes that the FAR contains a $25,000 small procurement provision, 48 CFR Part 13. This provision should not be confused with the $10,000 threshold because their purposes are different. The $10,000 threshold determines when the affirmative procurement provisions of RCRA section 6002 apply, whereas the $25,000 threshold triggers small procurement procedures. Procuring agencies must use the $10,000 threshold when determining the applicability of RCRA section 6002 and the final guideline issued today.

C. Definitions

No comments were received on the proposed definitions, and EPA is issuing them as proposed.

D. Requirements vs. Recommendations

RCRA section 6002 requires procuring agencies and contracting officers to perform certain activities, such as revising specifications for procurement items. It also requires EPA to prepare "guidelines for the use of procuring agencies in complying with" section 6002. EPA has incorporated the section 6002 requirements into the guidelines for the benefit of procuring agencies. As a result, the guidelines contain two types of provisions: Requirements (mandated by Congress in section 6002) and recommendations (EPA's guidance for complying with the requirements of section 6002). As used in this guideline, the verbs "shall" and "must" indicate section 6002 requirements, while verbs such as "recommend," "should," and "suggest" indicate recommendations for complying with those requirements.

Procuring agencies are required to comply with the requirements of section 6002, whereas EPA's recommendations for meeting those statutory requirements are advisory in nature. Procuring agencies may choose to use other approaches which satisfy the section 6002 requirements. However, EPA believes that if a procuring agency chooses to follow EPA's recommendations, that agency will be in compliance with the section 6002 requirements.

E. Specifications

1. *Federal Agencies.* RCRA section 6002(d) contains two requirements for revising specifications for procurement items. As discussed above, Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies were required to revise their specifications by May 8, 1986, to eliminate exclusions of recovered materials and requirements that items be manufactured from virgin materials [section 6002(d)(1)].[4] Second, within one year after the date of publication of a guideline as a final rule, Federal agencies must assure that their specifications require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item [section 6002(d)(2)].

Section 253.10 of the guideline contains these requirements as they apply to retread tires. Section 253.21(a) provides that by May 8, 1986, Federal agencies were required to eliminate from their specifications exclusions of retread tires and any requirement that tires be manufactured from virgin materials. Section 253.10(b) provides that agencies must assure that their specifications require the use of retread tires to the maximum extent possible without jeopardizing the intended end use of the item. In addition, in response to coments, EPA has added to § 253.10(b) a recommendation that specifications indicate the functional requirements of tires to be procured, including the performance criteria, any desired mileage guarantees, and the size and type of tire required. By identifying functional requirements, rather than limiting the applicability of a specification to new tires or to retread tires, such specifications will allow retread tires and new tires to compete on an equitable basis.

EPA believes that the second specification requirement in RCRA section 6002(d) is more extensive than the first requirements. Simply eliminating discriminatory provisions, as required by section 6002(d)(1), is not sufficient to meet all of the obligations of section 6002(d). EPA believes, however, that compliance with the affirmative procurement requirements of section 6002(i), coupled with use of specifications identifying functional requirements, will fulfill the section 6002(d)(2) requirements because an affirmative procurement program should result in procurement to the maximum extent practicable.

EPA has not reviewed all of the new tire specifications used by Federal procuring agencies. EPA believes that

[4] In the case of tires, specifications must not require that only virgin rubber can be used nor must they specify that reclaimed rubber cannot be used.

the ones that it has reviewed violate RCRA section 6002 because they exclude retread tires. Specifically, EPA believes that GSA would be required to revise its specifications for new tires so that they apply both to new tires and to retread tires. There may be other specifications of which EPA is unaware that do not violate section 6002; it is the responsibility of the procuring agencies that prepare these specifications to review them and to determine whether they are in compliance with RCRA.

2. *Procuring Agencies.* EPA believes that the second specification revision requirement also applies to non-Federal procuring agencies which procure tires with appropriated Federal funds. Unless their specifications are revised to require the use of retread tires, these agencies will be unable to implement the affirmative procurement requirements of RCRA section 6002(c)(1) and (i). For this reason, § 253.10(b) of the guideline provides that all *procuring agencies* (rather than "Federal agencies" as provided in the Act) must assure that their specifications require the use of retread tires to the maximum extent possible without jeopardizing the intended use of the item.

3. *Public Comments on the Proposed Specifications Provisions.* Commenters primarily discussed whether EPA should recommend specification revisions, whether NHTSA regulations precluded development of specifications for certain uses of retread tires, and whether one specification could be developed for new and retread tires. EPA also received miscellaneous comments pertaining to the specifications portion of the proposed guideline.

a. *EPA recommendations for specification revisions.* A commenter did not agree that EPA should be recommending specification revisions to GSA, stating that EPA should only specify the end result and leave the method of achieving this result to the procuring agencies. EPA disagrees. EPA is required by statute to "set forth recommended practices with respect to the procurement of recovered materials" (section 6002(e)(2) of RCRA). EPA thus believes that Congress intended for EPA to do more than merely reiterate the content of the statute, including suggesting specification revisions, as appropriate.

b. *Impact of NHTSA regulations.* The GSA Interagency Fleet Management System has strongly urged EPA to "advise Federal agencies that retread tires are not required by NHTSA to meet the standards for tire endurance or high-speed performance. This will ensure that Federal agencies have relevant information available to them in designing their procurement program." In addition, a commenter has strongly urged EPA to reconsider making the guideline apply to passenger carrying vehicles or steering axles of other vehicles engaged in high-speed, over-the-road operations, in light of the fact that NHTSA does not require retread tires to meet tire endurance or high-speed performance requirements which apply to new tires.

EPA concurs that tires which do not meet standards for endurance or high-speed performance should not be used for those purposes. EPA notes, however, that GSA has not provided any documentation showing that retread tires *cannot* meet these performance standards, and RCRA section 6002(d)(2) requires agencies to assure that specifications require the sue of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item. EPA therefore urges procurement agencies to develop standards, in conjunction with GSA and the retreading industry, that can be used to test the endurance and high-speed performance capabilities of retread tires. The NHTSA standard for new tires, 49 CFR 571.109, could serve as a starting point. EPA is aware that at least one retreader has successfully tested its tires in accordance with the new tire endurance and high-speed performance standards in § 571.109, so it is possible that these performance standards either can be used for retread tires or can be adapted for retread tire use. Furthermore, EPA knows of no NHTSA regulation which prohibits procuring agencies from doing so.

A commenter suggested that the absence of NHTSA standards for a particular end use (e.g., high speed retread tires) precludes that use. On the contrary, EPA believes that the absence of a NHTSA standard for a particular use cannot be used by a procuring agency as a reason for not developing its own specifications for that use. Specification revision or specification development must be in accordance with RCRA section 6002(d)(2). In other words, a determination that use of recovered materials (e.g., retread tires) will jeopardize the intended end use (e.g., high speed) should be supported by test data.

c. *Use of a single specification for new and retread tires.* A commenter stated the belief that retread tires and new tires are two different products requiring two different specifications. EPA believes that one performance standard identifying the properties and/or performance requirements of tires can and should be developed. It is not necessary that one specification be developed, however, as long as the performance standard in each specification is the same. The issue of concern is that there be one performance standard against which both new and retread tires can compete on an equitable basis. For example, at least one major American retailer uses the same performance requirements for retread tires as for new tires. The tires also are sold with the same warranties as new tires. Thus, as discussed above, EPA is recommending in § 253.21(b) of the final guideline that specifications identify the functional requirements of tires to be procured.

d. *Miscellaneous comments.* Section 253.10(a) of the guideline states that Federal agencies were required to eliminate any exclusion of retread tires from their specifications by May 8, 1986. A commenter objected to EPA's use of "retread tires" rather than "recovered materials" as used in RCRA section 6002(d)(1). One purpose of EPA guidelines is to inform procuring agencies as to what the law requires them to do. In the case of tires, the law requires them to eliminate exclusions of products manufactured with recovered materials, including retread tires; therefore, it is appropriate for EPA to use the term "retread tires."

Section 253.10(b) of the guideline provides that procuring agencies must revise their specifications to require the use of retread tires to the maximum extent possible "without jeopardizing the intended end use of these items," which is the limitation on use permitted by RCRA section 6002(d)(2). A commenter stated that by using the statutory language, EPA is implying that there may be problems with retread tires. EPA is implying nothing about the performance of retread tires; instead, EPA is informing procuring agencies that they may restrict use of retread tires if such use will jeopardize the intended end use of the tires. (Exclusions of retread tires are discussed further below.)

A commenter stated that a procuring agency is not free merely to cite its own specifications as a reason, under RCRA section 6002(c)(1), for failing to buy retread tires *unless* the specifications have been revised to require the use of retread tires to the maximum extent practicable. EPA agrees. Procuring agencies may not continue to use discriminatory specifications when purchasing tires, nor may they cite such discriminatory specifications as the basis for their failure to purchase retread tires, unless and until the basis for the restrictive provisions in such

specifications has been reviewed and found to be justified. In the final guideline issued today, EPA has revised § 253.21(d)(3) accordingly.

4. *Sources of Specifications.* The retreading industry has developed standards which can be obtained by contacting the industry trade associations. The addresses and telephone numbers of the associations are as follows:

American Retreaders Association, Inc., P.O. Box 17203, Louisville, KY 40217, (502) 361–9219.

National Tire Dealers and Retreaders Association, Inc., Suite 400, 1250 I Street NW., Washington, DC 20005, (202) 789–2300.

Tread Rubber Manufacturers' Group, 1200 19th Street NW., Washington, DC 20036, (404) 546–0221.

The American Retreaders' Association, Inc. has prepared a booklet on bid specifications, *How to prepare bid specifications for retread and repaired tires,* which outlines in some detail major areas that should be considered when preparing bid specifications. A copy of the booklet has been placed in the docket for this guideline and is available from the ARA.

5. *Exclusions.* Under section 6002(d)(2) of RCRA, specifications need not be revised if the agency determines that, for technical reasons, a product containing recovered materials will jeopardize the end use of the product. EPA recommends that such determinations be documented, be based on technical performance information, and identify any performance criteria that cannot be satisfied by retread tires. (See § 253.11 of the guideline.) If the agency subsequently issues a restrictive specification, the basis for the restriction should be documented when the specification is issued.

Although RCRA section 6002(d)(2) permits an agency to limit the use of an item containing recovered materials, there must be a legitimate, factual basis for such limitation. Use cannot be limited without reason or based simply on prejudice, whim, or speculation. For this reason, § 253.11 of the final guideline provides that procuring agencies should document the basis for any limitations.

In the proposed guideline, EPA provided the following example of a specification that would satisfy RCRA section 6002(d)2): Draft Army Regulation (AR) 750–36, which contains the Army's policy and procedures for use of retread tires, excludes use of retread tires on the front wheels of buses and on emergency vehicles and heavy-lift vehicles.[5] Commenters objected to the restrictions in this regulation for a variety of reasons. EPA was not endorsing this regulation. Rather, EPA's purpose in citing it was to provide an example of the type of specification that would conform to RCRA section 6002(d)(2) if and only if there is a justifiable basis for such limitations.

F. Affirmative Procurement Program

RCRA section 6002(i) requires procuring agencies to adopt an affirmative procurement program to ensure that retread tires are purchased to the maximum extent practicable. The program must contain four elements: (1) A recovered materials preference program; (2) a promotion program; (3) procedures for estimation, certification, and verification of recovered materials content; and (4) procedures for annual review and monitoring of the program's effectiveness. The program must be established within one year of the date of publication of this guideline as a final rule.

Federal procuring agencies should note that while GSA executes tire contracts, it is not responsible for actual procurement by other agencies and therefore is not responsible for development and implementation of affirmative procurement programs under RCRA section 6002 for any agency other than itself. Individual procuring agencies must develop, implement, and monitor their own affirmative procurement programs. EPA has added § 253.20(b) to the final guideline to make this clear.

The following sections explain EPA's recommendations for each element of an affirmative procurement program for retread tires.

1. *Recovered Materials Preference Program.* Under section 6002(i)(3), procuring agencies have three options for implementing the preference program. They can employ a case-by-case approach, adopt minimum content standards, or choose an approach that is substantially equivalent to the preceding approaches. In general, the minimum content standard approach is appropriate when the quantity of recovered material used can vary. For example, the quantity of recycled paper used in manufacturing paper and paper products can be varied. In the case of retread tires, where the recovered material is the used tire casing, the quantity of recovered material used does not vary. For this reason, minimum content standards are inapplicable to retread tire procurement.

a. *Proposed recommendations for a preference program.* In the proposed guideline, EPA recommended two approaches to procurement of retread tires: procurement of tire retreading services and procurement of retread tires as a product. EPA recommended that agencies procuring retreading services record specified information for each procurement of new tires and each procurement of retreading services. This information would be reviewed as part of the statutorily mandated annual review and would be used to identify unjustifiable resistance to use of tire retreading contracts. EPA further recommended that agencies procuring retread tires as a product use case-by-case procurement through open competition between vendors of retread tires and vendors of new tires. In the case of a tie bid, all other factors being equal, preference would be given to the vendor of retread tires.

After reviewing the public comments on the proposed guideline and further researching state and commercial tire procurement, EPA has concluded that procuring agencies should use a combination of the two recommended approaches. For example, a commenter stated that use of retreading services, by itself, does not satisfy an agency's obligations under section 6002 to procure retread tires to the maximum extent practicable because only a portion of an agency's tires can be retreaded and the agency will, therefore, be required to procure some replacement tires, which could be retread tires. EPA agrees. Agencies should procure retreading services for their used carcasses *and* procure retread tires as a product.

EPA recognizes, however, that it might not always be practical or possible for a procuring agency to purchase retread tires or retreading services in all cases. As described below, the final guideline also addresses procurement using one but not both components in such cases.

b. *Final recommendations for a preference program.* EPA recommends that procuring agencies establish preference programs consisting of two components: (1) Procurement of retreading services for the agencies' used carcasses and (2) procurement of retread tires as a product. In addition, EPA recommends that procuring agencies establish a tire procurement policy that gives priority to retreading the agencies' used tires. In other words, under the policy, a procuring agency will first procure tire retreading services to

[5] The Army has informed EPA that Draft AR 750–36 was not issued. Retread tires are now included in AR 750–1 which, among other things, identifies limitations on use of retreads. EPA believes that the basis for these limitations should be documented.

the maximum extent practicable. If retreading services are not practicable, for example because the tire carcass is not retreadable, then the procuring agency will obtain a replacement tire from the product vendor.

If a procuring agency finds that it is unable to implement one of these components, then it must document the basis for this and continue to implement the other component. The basis for not implementing one of the components must be one of the reasons provided in RCRA section 6002(c)—i.e., unsatisfactory competition, unreasonable availability, failure to meet performance standards or specifications, or unreasonable price. In addition, the procuring agency must continue to attempt to implement the component that it is unable to implement at this time.

As explained in section II.E.2 of this preamble, procuring agencies purchasing retread tires as products can solicit bids from both vendors of new tires and vendors of retread tires. The decision to purchase retread tires is made on a case-by-case basis, and the contract is awarded to the lowest-priced responsible bidder. EPA recommends that this component of the preference program include a preference to the vendor offering to supply the greatest number of retread tires in the event that tie bids are submitted by a vendor of retread tires and a vendor of new tires, all other factors being equal. Section 253.21(a)(2) of the final guideline recommends that procuring agencies adopt such a preference.

A commenter stated that the proposed tie bid provision was ambiguous in light of the equal low bids provision of FAR 14.407–6 and requested clarification. It is EPA's view that RCRA section 6002 did not authorize procuring agencies, in their preference programs, to supersede applicable provisions of Federal procurement law, including the FAR. EPA believes, however, that the recovered materials preference authorized by RCRA section 6002 should be incorporated into the preferences established in the equal low bids provision of the FAR. Therefore, EPA recommends that Federal entities responsible for periodic revision of the FAR consider modifying the provision at 48 CFR 14.407–6 to integrate a preference for vendors offering to provide procurement items which have been designated by EPA under RCRA section 6002(e).

In the final paper and lubricating oil guidelines, EPA noted that it believed that a case-by-case program might not satisfy the section 6002(i) requirement for an affirmative procurement program because it would only award contracts to the product containing a higher percentage of recovered materials in the event of a tie. [See 52 FR 37299, 27302 (October 6, 1987), and 52 FR 38844 (October 19, 1987).] In light of these previous statements by EPA, several commenters objected to EPA's recommendation to use the case-by-case approach for procuring tires as products because it would have little or no effect on the procurement of retread tires.

EPA has concluded that the case-by-case approach can be used successfully to procure retread tires and should be used as one component of a preference program. As long as retread tires provide similar service to new tires—as promoters of their use, including the commenters, maintain that they will—at a lower cost, procuring agencies must procure them.

Because RCRA section 6002(i) requires the procurement program to be affirmative, and because procuring agencies must promote their programs, agencies using the case-by-case approach are required to seek out vendors of retread tires. Clearly, this will be a change in the status quo, in which most procuring agencies neither consider using retread tires nor seek out vendors of retread tires. As a result, the case-by-case approach can have a significant impact on retread tire procurement.

A commenter stated that it is not feasible to allow a retread tire to be bid against a new tire because of cost and requirement differences, although the commenter failed to explain how and why this is true. In fact, EPA believes that requirements can be the same for new and retread tires, an example being the use of mileage guarantees. In addition, EPA notes that one of the purposes of RCRA Section 6002 and procurement guidelines is to require procuring agencies to treat products made from virgin materials and products made from recovered materials in the same manner to the extent consistent with the intended end use. EPA believes that it is possible to meet this goal by developing an affirmative procurement program that treats new and retread tires alike even while acknowledging that there are differences between them. Therefore, EPA has retained the case-by-case recommendation in the final guideline.

A commenter suggested that EPA revise the preference program provision to recommend that a procuring agency show that its procurement satisfies the statutory requirements, including use of non-discriminatory specifications. In response, EPA is adding § 253.21(c) to the final guideline to recommend that procuring agencies document which of the statutory limitations is the reason for not procuring retreading services.[6]

While GSA prepares tire specifications and awards contracts to tire vendors, the individual Federal operator, in conjunction with GSA's Fleet Management, decides whether to purchase retreading services or to buy a new tire. Except for Department of Defense activities, the agencies do not maintain records on procurement of new tires or tire retreading services. EPA believes that recordkeeping is necessary to obtain information on cost savings, performance of retread tires, and use of retread tire or tire retreading services contracts. Therefore, EPA recommends that as part of the preference program, agencies institute the practice of monitoring tire procurement by agency subgroups or individuals by requiring them to record their decisions to procure replacement tires and tire retreading services. The record should identify the type and quantity of tires procured; whether new tires, retread tires, or retreading services were procured; the cost per tire; and if new tires are procured, the reasons for not procuring retreading services or retread tires. This recommendation is in § 253.21(d) of the final guideline.

A commenter objected to the proposed recordkeeping recommendation on the grounds that it would mean two separate actions for every tire purchase, would increase the administrative workload, and would be very difficult to control or manage. EPA disagrees. First, when a replacement tire is needed, a decision is made whether to procure a new tire or retreading services; EPA's recommendation simply is that the decision be documented so that procurement can be reviewed annually as required by section 6002. Second, because the recommended documentation is minimal, EPA does not believe that the administrative workload will be more than minimal, nor that it will be very difficult to control or manage. EPA also notes that the affirmative procurement provisions of RCRA section 6002 clearly envision at least some increases in the administrative workload; for example, administrative effort is needed in order to implement the estimation, certification, verification, and annual review requirements.

[6] As discussed above in section III.E. of the preamble, a procuring agency cannot cite its specifications as a reason for failing to procure retreads unless the specifications have been reviewed and revised in accordance with RCRA section 6002(d) and Subpart B of the guideline.

Very few Federal agencies operate central motor pools, and the civilian agencies no longer store replacement automotive parts, including tires, in warehouses. Instead, vehicle maintenance and replacement parts are purchased from commercial establishments on an as needed basis. GSA contracts with vendors to provide parts and services. A commenter stated that in light of this lack of central motor pools, it would be impossible for most agencies to obtain tire retreading services.

EPA believes that procurement of retreading services is possible without government warehousing. For example, GSA can require that contract retreaders store used government tires until there is a predetermined, economically feasible quantity to be retreaded.[7] The retreader can also store the retreaded government tires and provide them to the government vehicle operator on an as-needed basis. Some retreaders operate wholesale or retail outlets for tires in addition to their retreading operations and thus might be willing to enter into such warehousing arrangements.

c. *Other preference program recommendations.* A commenter indicated to EPA that GSA's use of small business procurement procedures for procurement of tire retreading services contributes to quality assurance problems. EPA believes that such procurement practices constitute specifications and must be reviewed and revised by procuring agencies, as necessary. EPA previously stated in the lubricating oils guideline that the term "specifications" in RCRA section 6002(d) refers to all procurement practices related to specifying what a procuring agency intends to purchase, 53 FR 24710 (June 30, 1988). Therefore, as part of developing a lubricating oil procurement program under section 6002(i), procuring agencies were required to examine their procurement practices and revise those which inhibit or preclude procurement of products containing recovered materials. EPA believes that this is equally applicable to procurement of retread tires. EPA, therefore, has added § 253.21(e) to the final guideline to inform procuring agencies that they must review and revise any procurement practices which inhibit or preclude procurement of retread tires or tire retreading services.

The Federal (i.e., GSA) approach to using retread tires employs a combination of (1) a retreading facilities specification describing the procedures to be used for retreading and (2) policies limiting the use of retread tires. GSA's written policies recommend that retread tires not be used on the steering axles of high speed, over-the-road vehicles and prohibit use of retreads on passenger-carrying vehicles or on the steering axle of any Interagency Fleet Management vehicle used on public highways. Use of retread tires is recommended on the rear wheels of large traucks, truck tractors, trailers, and off-road vehicles.

Commenters stated that there are no means at GSA's disposal to assure the quality of retread tires. According to the commenters, barriers to quality assurance include the standard operating procedures of the retreading industry, lack of government and/or industry test methods, and infeasibility of using batch testing on retread tires. The commenters also stated that these factors precluded development of one specification to be used for both new and retread tires.

EPA discussions with the retreading industry and tire retailers have uncovered retreading programs that employ both production quality control and performance quality control. The performance quality control involves performance testing that is the same as or similar to testing required by government specifications for new tires. Batch testing using random sampling also is used. These manufacturers produce passenger car tires which are intended to be sold for the same usage as new tires (e.g., there are no limitations on their use on steering axles or at highway speeds). Regular, high performance, and speed-rated tires are produced. At least one major American retailer sells these tires with the same warranties as new tires. In light of these programs, EPA has concluded that it is possible for GSA to develop specifications and procurement practices that assure tire quality.[8]

In this regard, a commenter stated that the Federal government is encumbered by a myriad of Federal statutes and a variety of Federal Procurement Regulations which preclude procurement of high quality retread tires. EPA points out that one of the underlying purposes of section 6002 is to require procuring agencies to revise their procedures so that they can procure items containing recovered materials.

d. *Other procurement approaches considered.* In the final paper guideline, 52 FR 37298–37299 (October 6, 1987), EPA discussed the section 6002(i) requirement that any affirmative procurement program be consistent with applicable provisions of Federal procurement law. From time to time, Congress has established preferential procurement programs in order to attain socioeconomic goals. Among those are the Small Business, Labor Surplus Area, and Minority Business procurement programs. EPA considered applying either or both of the mechanisms used in those programs—price preferences and set-asides—to this guideline. A price preference allows the procuring agency to pay a higher price, if necessary, for a specified product from preferred vendors. A set-aside requires the procuring agency to award a certain percentage of its contracts to preferred vendors of a product regardless of price. Price preferences and setasides are currently being used in some state programs for the procurement of paper and paper products containing recovered materials. As of January 1988, five states and two cities use price preference programs in which products containing recovered materials may cost from 5 to 10 percent more than virgin materials. Two states have set-aside programs, one for paper and paper products, the other for all types of products. These states report that they successfully procure products containing recovered materials.

EPA has considered recommending these programs at the Federal level. However, in the case of existing Federal preferential procurement programs that allow a price preference or set-aside, the Agency found that each had been established under explicit statutory authority or a specific Executive Order. Neither the statutory language nor the legislative history of Section 6002 seems to contemplate the adoption of either price preferences or set-asides, and doing so would conflict with existing Federal procurement law. Therefore, rather than recommending price preferences or set-asides, EPA is recommending that procuring agencies use the procurement mechanisms provided in RCRA section 6002(i)(3).

2. *Promotion Program.* The second requirement of the affirmative procurement program is a promotional effort by procuring agencies. The guideline recommends several methods for procuring agencies to use for disseminating information about their preference programs, such as placing statements in invitations to bid, discussing the program at bidders'

[7] Current GSA contracts require agencies to submit a batch of 200 tires for retreading. This quantity can be reduced, however. EPA knows of a State that supplies batches of 25 tires for retreading.

[8] The basis for EPA's conclusion is described in *Background Document for Final Retread Tires Procurement Guideline* (E.H. Pechan & Associates, Inc., September 1988), which has been placed in the docket for this rulemaking.

conferences, and informing industry trade associations about the program. No commenters suggested revisions to this section of the guideline.

3. *Estimates, Certification, and Verification.* The third requirement of the affirmative procurement program set forth in section 6002(i) concerns estimates, certification, and verification. Many questions have been raised about the certification and estimation of recovered material content, such as when they should be provided, who is to provide them, how the information is to be obtained, and how it is to be verified. To clarify this subject, it is necessary to review the requirements of the law.

a. *Estimation.* RCRA sections 6002(c)(3)(B) and 6002(i)(2)(C) require that after the effective date of an EPA guideline, contracting officers must require vendors who supply Federal procuring agencies with items covered by the guideline to provide an estimate of the total percentage of recovered materials contained in the items. EPA believes that this requirement is for the purpose of gathering statistical information on price, recovered material content, and availability, and applies regardless of whether the procurement solicitation specifies that recovered materials can or must be used.

In the case of tires, procuring agencies either purchase a product containing recovered tire casings, or contract for a retreading service for government casings, rather than purchasing a product containing a certain percentage of recovered materials. In the proposed guideline, EPA stated that the statistical information that procuring agencies need to obtain the number of retread tires to be a supplied by the vendor. A commenter pointed out, however, that when a procuring agency purchases tire retreading services using an indefinite quantity contract, it would be impossible for the vendor to estimate the quantity of tires to be supplied. EPA agrees and has concluded that the estimation provision does not apply in this limited situation. EPA has revised § 253.23(a) accordingly.

For all other procurements of retread tires or tire retreading services, however, the contracting officer must require the vendor to estimate the number of retread tires to be supplied. EPA is recommending that procuring agencies retain these data for three years from the date they are received.

b. *Certification.* RCRA section 6002(i)(2)(C) provides that contracting officers must require vendors to supply certifications of recovered materials content, where appropriate. EPA believes that, in general, *written* certifications are inappropriate for retread tire procurement because retreaders already use another certification procedure which is required by Department of Transportation regulations. Newly retreaded tires are inspected to determine that they are free of defects and that they comply with Federal Motor Vehicle Safety Standards. Tires passing the retreaders' inspection are certified by stamping the retreading plant's identification number and the symbol DOT–R on the sidewall. The identification number indicates that the plant is a retreading operation. This is in accordance with section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 and 49 CFR 571.117 and 574.5.

EPA recognizes, however, that vendors offering tires as a product might offer to supply a set number of retread tires or to supply retread tires as a set percentage of the total number of tires to be supplied. In this instance, a certification of the quantity or percentage to be supplied is needed. Therefore, EPA has added a certification recommendation in the final guideline; see § 253.23(b).

A commenter stated that vendors should be required to supply the certification number (i.e., the retreader's DOT identification number) on their bids as a means of meeting the certification requirement. EPA disagrees, because the relevant information needed by a procuring agency is the quantity of tires to be supplied, and the DOT identification number will not provide this information. Therefore, EPA has not included the commenter's recommended revision in the final guideline.

c. *Verification.* Section 6002(i) also requires procuring agencies to establish reasonable procedures to verify the estimates and certification. For retread tires, verification will be relatively easy because the certification number stamped on the sidewall of the tire identifies the tire as a retread. Procuring agencies need only to spot check these numbers to verify that a retread tire has been supplied.

4. *Annual Review and Monitoring.* The fourth requirement of the affirmative procurement program is an annual review and monitoring of the effectiveness of the program. EPA recommends that the review include an estimate of the number of retread tires purchased during the year, assessment of the effectiveness of the agency preference program, and an assessment of remaining barriers to procurement of retread tires.

In other procurement guidelines, EPA has recommended that procuring agencies keep specified records in order to monitor the progress of their affirmative procurement programs. Through an inadvertent oversight, EPA failed to include this recommendation in the proposed retread tires guideline. Several commenters asked EPA to include the recordkeeping recommendations. EPA agrees that this provision should be added to the retread tires guideline. EPA notes that the recommendations were available for public comment during development of the final paper and lubricating oil guideline and the proposed building insulation products guideline. See 52 FR 37335, October 6, 1987; 52 FR 38838, October 19, 1987; and 53 FR 29185, August 2, 1988. Therefore, in the final guideline issued today, EPA has revised § 253.24 to incorporate the recordkeeping recommendations. The following discussion explains the recommendations.

EPA has concluded that one purpose of the requirement that vendors provide estimates is to provide information to procuring agencies that can be used in future procurements. Further, procuring agencies need to keep up-to-date on changes in recycling practices and availability of products containing recovered materials. EPA believes that unless a procuring agency compiles such data, it will not be fulfilling its statutory obligations.

A program for gathering statistics need not be elaborate to be effective. However, agencies should monitor their procurements to compile data on the following:

(a) Comparative price information on competitive procurements;

(b) The quantity of each item procured over a fiscal year;

(c) The availability of retread tires or tire retreading services to procuring agencies;

(d) Type of performance tests conducted, together with the categories of retread tires that failed the tests, the percentage of all new tires and retread tires procured, respectively, that failed each test, and the nature of the failure;

(e) Agency experience with the performance of the procured products.

EPA recommends that each procuring agency prepare a report on its annual review and monitoring of the effectiveness of its procurement program. As part of the report, agencies should demonstrate that their preference program results in procurement of retread tires or tire retreading services to the maximum extent practicable. The basis for these determinations should be a review of the data compiled on price, availability, and performance, as well as a comparison of estimates and certifications provided by the vendors. Agencies should also document

specification revisions made during the reporting period.

EPA believes that this information will be useful to the public. EPA notes that this guideline will apply to State and local procuring agencies and contractors, as explained in Section III.B of the preamble. Information drawn from the experience of Federal procuring agencies about purchases of retread tires and tire retreading services would therefore be useful to State and local purchasing officials and contractors. Accordingly, EPA encourages Federal procuring agencies to make their reports available to the public.[9]

Finally, EPA notes that while the annual review and monitoring requirements of RCRA Section 6002 apply to State and local procuring agencies and to contractors, EPA's recommendation for recordkeeping and reporting is less pertinent for these persons than for Federal agencies. Most EPA recommendations are germane to implementing section 6002. In the case of the recordkeeping and reporting recommendations, however, the recommendations are more germane to the Federal agencies, which are required to report to the Office of Federal Procurement Policy regarding implementation of section 6002. In addition, reports generated by the Federal agencies are available to the public through Freedom of Information Act requests, and the experience of Federal agencies will serve as an important teaching tool for non-Federal agencies trying to implement affirmative procurement programs.

In the case of non-Federal procuring agencies and contractors, there is no reporting requirement in section 6002, and the Freedom of Information Act does not extend to their documents (although there might be a similar state provision). EPA believes that reporting is less relevant when the report is unavailable unless the agency or contractor chooses to make it available. Therefore, EPA continues to recommend recordkeeping and reporting but acknowledges that these recommendations do not apply equally to non-Federal agencies and contractors.

IV. Price, Competition, Availability, and Performance

Section 6002(c)(1) of RCRA provides that a procuring agency may decide not to purchase an item designated by EPA if it determines that (1) the item is available only at an unreasonable price, (2) a satisfactory level of competition cannot be maintained, (3) the item is not reasonably available within a reasonable period of time, or (4) the item fails to meet the applicable specifications. This portion of the preamble discusses the effect of these limitations on retread tire procurement.

Commenters asked EPA to compile information on availability, price (including relative price of retread tires by geographic regions), and performance of retread tires and to distribute this information to all Federal agencies that purchase tires and to every state. They also asked EPA to sponsor seminars to share this information with interested persons. EPA agrees that further guidance will need to be provided to procuring agencies and vendors regarding the implementation of this as well as the other procurement guidelines. Therefore, the Agency will be developing a plan for educating the various procuring agencies and vendors.

A commenter objected to EPA's placing information on availability, price, and performance of retread tires in the docket supporting the guideline instead of in the guideline itself. While EPA acknowledges that the docket is not readily accessible to persons located outside of the Washington, DC area, EPA disagrees that additional information should be placed in the guideline. First, the **Federal Register** is not necessarily readily available to persons needing retread tires information. Second, EPA expects the information to be constantly changing, rendering the information published in the **Federal Register** obsolete. Third, the process for updating the information through notices in the **Federal Register** is not as cost-effective as other mechanisms. As a result, EPA plans to use other, less formal, highly available mechanisms to disseminate and update price, performance, and availability information.

A. Price

Section 6002 provides that a procuring agency may not purchase a designated item if the price is "unreasonable." Commenters on several of the procurement guidelines stated that a "reasonable price" includes price preferences. However, as EPA stated in the paper guideline, 52 FR 37298–37299 (October 6, 1987), RCRA section 6002 does not provide explicit authority to EPA to authorize or recommend payment of a price preference or to create a set-aside. Therefore, unless an agency has an independent authority to provide a price preference or to create a set-aside, EPA believes that a price is "unreasonable" if it is greater than the price of a competing product made of virgin material.

A commenter stated that EPA's interpretation of the unreasonable price provision is a decision not to buy recycled products in every instance except those in which the price is either lower than that for a virgin product or in which there is a tie between the virgin and recycled product. The commenter is incorrect. A recycled product might not be purchased in every case, even using price premiums as the commenter proposes, due to unavailability or lack of satisfactory competition. A recycled product also might not be purchased in every instance due to unreasonable discrimination, which is the problem that RCRA section 6002 and EPA's procurement guidelines are intended to eliminate. In attempting to overcome this problem, however, EPA cannot require or recommend that procuring agencies use price premiums.

A commenter disagreed with EPA's interpretation of "unreasonable" and noted that the legislative materials upon which EPA relies for this interpretation post-date by several years the original enactment of RCRA, do not indicate any intention on the part of Congress that section 6002 only apply in the rare situation of a tie bid, and only refer to recycled paper. While the commenter has correctly characterized the legislative materials, EPA disagrees that one should thus conclude that Congress intended for procuring agencies to pay a premium price for products procured pursuant to section 6002. EPA believes that if Congress had meant to authorize price premiums, then Congress would have explicitly said so in section 6002 and/or the legislative history. In the absence of this explicit authority, EPA can neither require nor recommend that procuring agencies pay a premium price.

Several commenters stated that procuring agencies should use life-cycle costing and factor in the avoided cost of tire disposal. These commenters failed either to suggest how this should be done or to supply any mechanism or methodologies for life-cycle costing in the context of procurement of tire retreading services and tires. EPA has researched the issue, which proved to be a complex problem. EPA has not been able to develop at this time a satisfactory methodology for determining life-cycle costing in this case. Therefore, EPA has not added a life-cycle costing recommendation to the final guideline.

[9] Of course, reports generated by Federal agencies are available to the public through the Freedom of Information Act. EPA believes that Federal agencies should take affirmative steps to make the reports readily available, such as making the reports available for purchase from the Government Printing Office or the National Technical Information Service.

B. Competition and Availability

EPA believes that there will be a satisfactory level of competition and availability of retread tires. Currently, there is an abundant supply of worn tires in the waste stream that are candidates for retreading, and there are approximately 2,600 retreading plants located across the country. Therefore, there should be a satisfactory level of competition and availability.

The Federal retreading services contracts are awarded on a regional basis through small business set-aside procurements. A commenter stated that it would be impossible for the retreading industry at this small business level and even at the larger business level to handle the volume of demand that would be generated by all government agencies that are currently supplied with new tires; this commenter did not provide any documentation to support this assertion, however. EPA notes that procuring agencies are responsible for reviewing this type of procurement practice and revising it if it has a negative impact on procurement of retread tires or tire retreading services. EPA has added a recommendation to § 253.21 of the final guideline with respect to procurement practices. In addition, if retread tires or tire retreading services are not available, then procuring agencies are not required to buy them.

Several commenters asked EPA to provide a list of retreaders in the final guideline. EPA believes that it is inappropriate to do so. First, the **Federal Register** is not readily available to all procuring agencies affected by this guideline. Second, the list would require constant updating. EPA plans to establish other less formal, highly available mechanisms for disseminating this information, such as a telephone hotline. In the meantime, procuring agencies can contact the industry trade associations for assistance in identifying retreaders serving their geographic area; the addresses and telephone numbers of the associations can be found in section III.E.3. of the preamble.

C. Performance

As discussed elsewhere in this preamble, GSA's retread facility specification requires that retreaders have their production facilities certified either by GSA or by a nationally recognized retreader association. Once the plant is certified, it is periodically recertified to ensure that it is maintaining satisfactory operating procedures. In addition, newly retreaded tires are inspected by the retreader to determine that they are free of defects and that they comply with the Federal Motor Vehicle Safety Standards. These inspection and certification procedures help to assure the performance of retread tires, just as new tire inspection and certification procedures do.

A commenter stated that retread tires are not equivalent to new tires for all applications and all tire designs. This commenter also noted that the use of retread or unmatched tires on government vehicles decreases the value of the vehicles at the time of resale. Since this commenter did not provide any data, it is impossible for EPA to respond directly to these comments. EPA does note, however, that procuring agencies can prepare specifications that limit the use of retread tires where there is a factual, documented basis for such limitation. If unmatched tires is a concern, then agency specifications should require matched tires, whether they be new or retread tires.

A commenter also objected to use of retread tires of tire retreading services because retread tires do not carry a mileage guarantee, as new tires do. This is not correct. EPA knows of retreaders that provide mileage guarantees and/or warranties similar to or identical to new tire warranties. Procuring agencies interested in mileage guarantees or warranties should require them as part of their specifications.

Commenters also criticized the retread facility inspection and certification programs required by Federal specifications as inadequate to assure performance of retread tires. EPA believes that this criticism is unfounded. The inspection and certification provisions in the Federal specifications are required by GSA, the Federal agency charged with responsibility for developing specifications to assure tire performance. They were developed by GSA, in conjunction with the retreading industry as a means of assuring performance.

A commenter questioned the strength of used tire carcasses as compared to new tires. Information has been submitted to EPA by the American Retreaders Association documenting the burst strength of both passenger car tires and truck tires compared to similar new tires. EPA has placed the test reports, *The Study of Burst Strength New Versus Worn Radial Passenger Tires* (ARA, 1988) and *The Study of Burst Strength New Versus Worn Steel Radial Truck Tires* (ARA, 1988) in the docket for this guideline. Both studies are available from the ARA. EPA recommends that agencies concerned with used tire carcass strength obtain and evaluate these reports.

Finally, some commenters documented performance problems with use of retread tires. As EPA has discussed above and under the discussion of specifications, RCRA section 6002(d) provides that procuring agencies must revise their specifications to maximize use of retread tires without jeopardizing the intended end use of the tires. Use of retread tires can thus be limited as long as there is a factual, justifiable basis for the limitation.

V. Miscellaneous Comments

A commenter stated that the use of retread tires will only have a temporary affect on disposal of used tires. EPA does not follow the logic of this argument. Since retreading extends the life of a tire and allows the tire to be used again as a tire, it will not be necessary for the user to purchase a new replacement tire. Therefore, there will ultimately be fewer tires requiring disposal.

Commenters also argued that retreading will not address the long term problem with tire disposal and that EPA should address other uses of scrap tires. EPA is actively considering other means of recycling scrap tires, is studying the feasibility of procurement guidelines for them, and will decide whether to pursue guidelines after the feasibility study is completed.

A commenter suggested that EPA obtain information on the implementation of the guideline from other agencies to be used to revise the guideline from time to time. EPA plans to do this.

Section 253.21(d) of the proposed guideline recommended that procuring agencies make determinations regarding competition, availability, and price in accordance with applicable provisions of the FAR and other applicable Federal law. Commenters suggested that this provision should be deleted as unnecessary and possibly counterproductive. After reconsideration, EPA agrees with the commenters and has deleted this provision.

VI. Implementation

Different parts of section 6002 refer to different dates by which procuring agencies must have completed or initiated a required activity: (1) May 8, 1986 (i.e., 18 months after enactment of HSWA), (2) one year after the date of publication of an EPA guideline, and (3) the date specified in an EPA guideline. As a result, there is some confusion with respect to which activities must be

completed or initiated by each date. This section of the preamble explains these deadlines.

First, under section 6002(d)(1), Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items must eliminate from such specifications any exclusion of recovered materials and any requirements that items be manufactured from virgin materials. This activity was to be completed by May 8, 1986.

Second, procuring agencies must assure that their specifications for procurement items designated by EPA require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item [section 6002(d)(2)]. In addition, procuring agencies must develop an affirmative procurement program for purchasing items designated by EPA, in this instance, retread tires [section 6002(i)(1)]. Both of these activities must be completed within one year after the date of publication of this guideline as a final rule.

Third, procuring agencies which procure items designated by EPA must begin procurement of such items containing the highest percentage of recovered materials practicable [section 6002(c)(1)]. In addition, contracting officers must require vendors to submit estimates and certifications of recovered materials content [section 6002(c)(3)]. Both of these activities must begin after the date specified by EPA in the applicable guideline.

EPA believes that procuring agencies should begin to procure retread tires or tire retreading services as soon as the specification revisions have been completed and the affirmative procurement programs have been developed. Since these latter activities must be completed within one year after publication of this guideline as a final rule, affirmative procurement should begin no later than one year from publication as well. Section 253.26 specifies this implementation date.

EPA expects cooperation from affected procuring agencies in implementing this guideline. Under section 6002(g) of RCRA, the Office of Federal Procurement Policy (OFPP), in cooperation with EPA, is responsible for overseeing implementation of the requirements of section 6002 and for coordinating it with other Federal procurement policies. OFPP is required to report to Congress on actions taken by Federal agencies to implement section 6002.

VII. Regulatory Analyses

A. Environmental and Energy Impacts

The environmental and energy impacts of the retread tires guideline are discussed in *Background Document for the Guideline for Federal Procurement of Retread Tires* (E.H. Pechan & Associates, Inc., July 1987), which was included in the docket for the proposed guideline. In response to comments asking EPA to discuss the impacts in the guideline, the following summary of information in the background document is provided.

Each tire that is retreaded is one less tire disposed of in a landfill or tire pile or otherwise discarded. In addition, because a retread tire substitutes for a new replacement tire, there are ultimately less tires requiring disposal. Although not all scrap tires can be successfully retreaded, the initial acceptance rate of casings for retreading is between 40 and 50 percent, indicating that at least twice as many tires could be retreaded each year as are currently retreaded.

As discussed in section II.C of the preamble, tires are difficult to landfill, and both tires in landfills and tires in piles present threats to human health and the environment. The tires become home to mosquitos and vermin. They also settle unevenly in the landfill, creating problems for future development of the landfill site. They also are a potential fire hazard; the fires are expensive to control or contain and result in both air pollution and potential water pollution from run-off of oily residues.

While tire retreading operations generate some pollutants, there is a net environmental gain when tires are retreaded instead of discarded.

Tire retreading uses significantly less energy than manufacturing of new tires. For example, for each new tire produced, between 7 and 10 gallons of crude oil are required; tire retreading requires approximately 30 to 35 percent of this amount because of the bulk of the crude oil used in new tire manufacturing goes into the fabrication of the casing.

Similarly, production of a new tire requires about 14.7 thousand British thermal units (Btus) per pound versus about 2.2 Btus per pound for production of a retread tire. Each retread tire produced, therefore, is capable of reducing energy consumption by more than 12 thousand Btu/pound, or, assuming an average weight of 25 to 30 pounds for a passenger tire, between 310 and 375 thousand Btus of domestic energy consumption can be saved per retread passenger tire. The per-tire Btu saving is even greater for truck tires because of their heavier weight.

B. Executive Order No. 12291

Under Executive Order No. 12291, EPA must determine whether a regulation is major or nonmajor. This guideline is not a major rule because it is unlikely 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 compete with foreign-based enterprises in domesetic or export markets.

Increased usage of retread tires and tire retreading services addressed by this guideline is not expected to produce recurring annual effects of $100 million or more on the economy. The Federal Procurement Data Center reported Federal tire purchases of $39,400,000 for 1985, which represented less than ⅓ of 1 percent of the estimated tire production for the year. The majority of DOD tire procurements are for speciality, heavy-truck, and military equipment vehicles. DOD actively procures retreading services for this equipment already. The impact of this guideline would, therefore, primarily involve the GSA schedule purchases of other agencies. The 1986 GSA tire procurements were approximately $4,000,000. If *all* of these new replacement tires were replaced by using retreading services, the economic effect would be less than 10 percent of the $100,000,000 criteria of Executive Order No. 12291.

An expanded potential market for retread tires by increased government procurement is not expected to increase costs of retreading services or prices of retread tires. The retread tire industry is currently characterized by intense cost competitiveness and excess production capacity. Therefore, an increase in prices for retreading services will be expected to result in market share losses and decreased profits. Increased prices to government agencies may similarly mean loss of that market share.

The current goal of the declining retreading industry is to increase net profits through the reduction of operating expenses. Simply increasing sales will not increase net profits in this industry. A commenter asked EPA to define the circumstances under which profits would increase for the retreading industry. EPA cannot provide this

information. It is outside the scope of EPA's responsibility, but even if it were not, the factors must be determined by the industry itself, which is most familiar with its operating expenses and procedures.

In conclusion, the guideline by itself will have neither adverse effects nor be significantly advantageous in terms of competitiveness, employment levels, capitalization, productivity or innovation in this industry. The guideline is consistent with the cost-benefit standard of E.O. 12291.

This rule was submitted to the Office of Management and Budget for review as required by Executive Order No. 12291.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency publishes a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, small governmental jurisdictions), unless the Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

As described in th background document prepared for this guideline, the economic impact on both small businesses and small governmental jurisdictions is expected to be in some cases, negligible and in other instances, beneficial, because there will be no net change in the number of small businesses supplying tires to procuring agencies and most small govenment jurisdictions use non-Federal funds to procure tires. An extremely limited number of business and governmental entities are affected at all by the guideline. Therefore, the guideline is not expected to have significant economic impact on a substantial number of small entities.

For the above reasons, EPA certifies that this guideline will not have a significant economic impact on a substantial number of small entities. As a result, the guideline does not require a Regulatory Flexibility Analysis.

List of Subjects in 40 CFR Part 253

Government, procurement, Recycling, Resource recovery, Retreading, Tires.

Dated: November 9, 1988.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended by adding a new Part 253 to read as follows:

PART 253—GUIDELINE FOR FEDERAL PROCUREMENT OF RETREAD TIRES

Subpart A—General

Subpart B—Specifications

Subpart C—Affirmative Procurement Program

Authority: 42 U.S.C. 6912(a) and 6962.

Subpart A—General

§ 253.1 Purpose.

(a) The purposes of this guideline are:

(1) To assist procuring agencies in complying with the requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA or the Act), as amended, 42 U.S.C. 6962, as that section applies to procurement of tires and

(2) To designate tires as a procurement item subject to RCRA section 6002.

(b) This guideline contains recommendations for use in implementing the requirements of section 6002, including revision of specifications and development of an affirmative procurement program.

(c) The Environmental Protection Agency (EPA) believes that adherence to the recommendations in the guideline constitutes compliance with section 6002. However, procuring agencies may adopt other types of procurement programs consistent with section 6002.

§ 253.2 Designation.

EPA designates tires as items which are or can be produced with recovered materials (i.e., used tire casings) and whose procurement by procuring agencies will carry out the objectives of section 6002 of RCRA. For purposes of this guideline, the term "tires" does not include airplane tires.

§ 253.3 Applicability.

(a)(1) This guideline applies to all procuring agencies and to all procurement actions involving tires when the procuring agency makes a purchase, in the current fiscal year, worth $10,000 or more, or when the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was $10,000 or more. For purposes of the $10,000 threshold, all sizes and types of tires should be considered to be "functionally equivalent."

(2) This guideline applies to Federal agencies, to State or local agencies using appropriated Federal funds, and to persons contracting with any such agencies with respect to work performed under such contracts.

(i) Federal agencies should note that the requirements of RCRA section 6002 apply to them whether or not appropriated Federal funds are used for procurement of items designated by EPA.

(ii) This guideline also applies to State and local agencies and to contractors whenever commingled Federal and non-Federal funds are used to procure tires.

(iii) The $10,000 threshold applies to procuring agencies as a whole rather than to agency subgroups such as regional offices or subagencies.

(b) The term "procurement actions" includes purchases made directly by a procuring agency and purchases made by any person directly in support of work being performed for a procuring agency (e.g., by a contractor).

(c) This guideline does not apply to purchases which are not the direct result of a contract, grant, loan, funds disbursement, or agreement with a procuring agency.

§ 253.4 Definitions.

As used in this guideline:

"Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.*

"Federal agency" means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

"Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, Federal agency, State, municipality, commission, political subdivision of a State, or any interstate body.

"Practicable" means capable of being used consistent with: performance in accordance with applicable specifications, availability at a reasonable price, availability within a reasonable period of time, and

maintenance of a satisfactory level of competition.

"Procurement item" means any device, good, substance, material, product, or other item, whether real or personal property, which is the subject of any purchase, barter, or other exchange made to procure such item.

"Procuring agency" means any Federal agency, or any State agency or agency of a political subdivison of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract.

"Retread tire" means a worn automobile, truck, or other motor vehicle tire whose tread has been replaced.

"Specification" means a description of the technical requirements for a material, product, or service that includes the criteria for determining whether these requirements are met. In general, specifications are in the form of written commercial designations, industry standards, and other descriptive references.

"Tire" means the following types of tires: passenger car tires, light- and heavy-duty truck tires, high speed industrial tires, bus tires, and special service tires (including Military, agricultural, off-the-road, and slow speed industrial).

Subpart B—Specifications

§ 253.10 Revisions.

(a) By May 8, 1986, Federal agencies were required to eliminate from their specifications any exclusion of retread tires and any requirement that tires be manufactured from virgin materials unless there is a technical basis for such exclusion or requirement.

(b) Within one year after the date of publication of this guideline, each procuring agency must assure that its specifications require the use of retread tires to the maximum extent possible without jeopardizing the intended end use of these items. Specifications should indicate the functional requirements of tires to be procured, including the performance criteria (e.g., high speed tires), any desired mileage guarantees, and the size and type of tire required.

§ 253.11 Exclusions.

Any procuring agency which prepares a specification which excludes retread tires should document its determination that use of retread tires will jeopardize the intended end use of the tire. Such determinations should be based on technical performance information and identify any performance criteria that cannot be satisfied by retread tires.

Subpart C—Affirmative Procurement Program

§ 253.20 General.

(a) Within one year after the date of publication of this guideline as a final rule, each procuring agency which procures tires must establish an affirmative procurement program for procuring retread tires to the maximum extent practicable. The program must meet the requirements of section 6002(i) of RCRA, including the establishment of a preference program; a promotion program; procedures for estimation, certification, and verification; and procedures for conducting an annual review of the affirmative procurement program. This subpart provides recommendations for implementing section 6002(i).

(b) Federal agencies should note that while the U.S. General Services Administration executes tire contracts, it is not responsible for developing and implementing an affirmative procurement program under RCRA section 6002 for any agency but itself. Each Federal agency is responsible for its own section 6002 affirmative procurement program.

§ 253.21 Preference program.

(a) EPA recommends that procuring agencies establish preference programs consisting of two components:

(1) Procurement of tire retreading services for the agencies' used carcasses, such as from persons identified on the U.S. General Services Administration's Federal Supply Schedules.

(2) Procurement of tires through competition between vendors of new tires and vendors of retread tires. Procuring agencies should provide a preference to the vendor offering to supply the greatest number of retread tires in the event that identical low bids are received in response to a solicitation, all other factors being equal.

(b) EPA further recommends that procuring agencies establish a tire procurement policy stating that the agency will first procure retreading services for its used tires to the maximum extent practicable and, if such services are not practicable, obtain replacement tires from the vendor(s) awarded the contract(s) to supply tires.

(c) EPA recommends that a procuring agency that is unable to implement one of the components listed in paragraph (a) of this section document that it is unable to purchase retread tires or tire retreading services due to one or more of the following limitations:

(1) Unsatisfactory level of competition;

(2) Unavailability within a reasonable period of time;

(3) Inability to meet the specifications in the invitation for bids, provided that such specifications satisfy RCRA section 6002(d) and Subpart B of this part;

(4) Unavailability at a reasonable price.

The agency also must continue to attempt to implement the component.

(d) EPA recommends that procuring agencies record the following information for each procurement:

(1) Type and quantity of tires,

(2) Whether new tires, retread tires, or retreading services were procured,

(3) Cost per tire, and

(4) If new tires are procured, the reason for not procuring retreading services or retread tires.

(e) Procuring agencies must review their procurement practices and eliminate those which would inhibit or preclude use of retread tires.

§ 253.22 Promotion program.

Procuring agencies must develop a promotion program to promote the preference program. EPA recommends that procuring agencies use the following methods, at a minimum, to promote their preference programs:

(a) Place a statement in procurement invitations in the *Commerce Business Daily* describing the preference program.

(b) Describe the preference program in tire procurement solicitations or invitations to bid.

(c) Discuss the preference program at bidders' conferences.

(d) Inform industry trade associations about the preference program.

§ 253.23 Estimation, certification, and verification.

(a)(1) Except as provided in paragraph (a)(2) of this section, contracting officers must require vendors who supply tires to procuring agencies to estimate the number of retread tires to be supplied. EPA recommends that procuring agencies retain these estimates for three years from the date they are received.

(2) The estimation requirement does not apply when a procuring agency purchases tire retreading services using an indefinite quantity contract.

(b) EPA recommends that as part of a solicitation for tires as products, procuring agencies require vendors to certify the number of retread tires to be supplied or the percentage of the total tires to be supplied that will be retread tires.

(c) Procuring agencies must establish reasonable procedures to verify the estimates. EPA recommends that procuring agencies randomly check the numbers stamped on tire sidewalls to verify that retread tires have been supplied. (In accordance with U.S. Department of Transportation regulations, the tire will be stamped with the symbol DOT–R.)

§ 253.24 Annual review and monitoring.

(a) Each procuring agency must conduct an annual review and monitoring of the effectiveness of its affirmative procurement program. EPA recommends that the annual review include the following items:

(1) An estimate of the number of retread tires purchased.

(2) An assessment of the effectiveness of the preference program.

(3) An assessment of remaining barriers to procurement of retread tires to determine whether they are internal (e.g., resistance to use) or external (e.g., unavailability) barriers.

(4) A program to gather statistics. Procuring agencies should monitor their procurements to provide data on the following:

(i) Comparative price information on competitive procurements;

(ii) The quantity of each item procured over a fiscal year;

(iii) The availability of retread tires or tire retreading services to procuring agencies;

(iv) Type of performance tests conducted, together with the type of retread tires that failed the tests, the percentages of all new tires and retread tires procured, respectively, that failed each test, and the nature of the failure;

(v) Agency experience with the performance of the procured products.

(b) Procuring agencies should prepare a report on their annual review and monitoring of the effectiveness of their procurement programs and make these reports available to the public. The reports should contain the following information:

(1) A discussion of how the procuring agency's approach procures retread tires or tire retreading services to the maximum extent practicable. The basis for this discussion should be a review of the data compiled on price, availability, and performance, as well as a comparison of estimates and certifications provided by the vendors.

(2) Documentation of specification revisions made during the year.

§ 253.25 Implementation.

(a) Federal agencies were required to review and revise their specifications, as set forth in § 253.10(a), by May 8, 1986.

(b) Procuring agencies are required to revise their specifications as set forth in § 253.10(b), and to establish affirmative procurement programs, as set forth in Subpart C, by November 17, 1989.

(c) Procuring agencies must begin procurement of retread tires, in compliance with this guideline by November 17, 1989.

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November 17, 1988

Part VI

Department of Education

Grants to Institutions to Encourage Minority Participation in Graduate Education Program; Applications Invited; Notice

DEPARTMENT OF EDUCATION

[CFDA NO: 84.202]

Grants to Institutions to Encourage Minority Participation in Graduate Education Program; Applications Invited for New Awards for Fiscal Year 1989

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of program: To provide grants to enable institutions of higher education to make available fellowship aid to eligible undergraduate students from minority groups in order to provide those students with effective preparation for graduate study.

Deadline for Transmittal of Applications: December 29, 1988.

Available Funds: $3,476,000.

Estimated Range of Awards: $29,150–$120,000.

Estimated Average Size of Awards: $86,900.

Estimated Number of Awards: 40.

Note: The Department is not bound by any estimates in this notice.

Project Period: 6 weeks to 1 year.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), in 34 CFR Part 74 (Administration of Grants); 34 CFR Part 75 (Direct Grant Programs), and 34 CFR Part 77 (Definitions that Apply to Department Regulations).

Description of Program: The Grants to Institutions to Encourage Minority Participation in Graduate Education Program is authorized under Pub. L. 99–498, Part A of Title IX of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (HEA). (20 U.S.C. 1134–1134b) Grants under this program are designed to enable institutions of higher education to identify, recruit, and make available fellowship aid to talented, under-graduate students who demonstrate financial need and are from minority groups that are traditionally underrepresented in graduate education in order to provide those students with an opportunity to participate in a program of research and scholarly activities designed to provide them with effective preparation for graduate study. The program of study may consist of summer research internships augmented by seminars and other educational experiences. All funds received under this program must be used for direct fellowship aid. Fellowships should provide an opportunity for fellows to spend six to ten weeks on a grantee's campus participating in research and scholarly activities in an environment that is encountered in graduate and professional programs.

NOTE: For guidance purposes only, the Secretary suggests that applicants consider "minority" to mean American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander, or other ethnic groups, that have traditionally been underrepresented in graduate education.

Eligibility: (a) An institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, as amended, is eligible to apply for a grant to conduct a fellowship program.

(b) An individual is eligible to apply for a fellowship if the individual—

(1) Is a talented undergraduate student;

(2) Demonstrates financial need;

(3) Is from a minority group that has traditionally been underrepresented in graduate education; and

(4)(i) Is a citizen or national of the United States;

(ii) Is a permanent resident of the United States;

(iii) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen or permanent resident; or

(iv) Is a permanent resident of the Republic of Palau or the Commonwealth of the Northern Mariana Islands.

(c) the institution of higher education is responsible for making accurate determinations concerning the criteria in paragraph (b) of this section of the notice.

(d) Additional eligibility requirements may be established by the institution of higher education.

Selection Criteria: (a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (30 points). The Secretary reviews each application to determine how well the project will meet the purpose of the authorizing statute, Part A of Title IX of the HEA, including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the authorizing statute.

Note: A statement of the purpose of the authorizing statute is found in the Purpose of Program section of this notice.

(2) *Extent of need for the project.* (20 points). The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (28 points). The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(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.

Note: The authorizing statute requires that fellowship awards be made to students from minority groups traditionally underrepresented in graduate education.

(4) *Quality of key personnel.* (7 points) (i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director [if one is to be used];

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as 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.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i)(A) and (B) of this section, the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 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.

(6) *Evaluation plan.* (5 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 to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(7) *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.

(c)(1) In making awards under this program, the Secretary shall consider the quality of an applicant's plan for recruiting students, and the quality of the program of study and of the research in which the students will be involved.

(2) The Secretary will ensure an equitable geographic distribution among public and private institutions of higher education.

Note: The authorizing statute provides that all funds received under this program must be used for direct fellowship aid.

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 #84.202), 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 #84.202), 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.

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: Mr. Walter T. Lewis, Program Manager, Minority Participation in Graduate Education Program, U.S. Department of Education, Division of Higher Education Incentive Programs, 400 Maryland Avenue, SW., ROB–3, Washington, DC 20202–5251. Telephone: (202) 732–4393.

Program Authority: 20 U.S.C. 1134–1134b.

Dated: November 10, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

BILLING CODE 4000—01—M

Appendix

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	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): ☐☐ — ☐☐☐☐☐☐☐

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*):

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): _____

9. NAME OF FEDERAL AGENCY:
U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 a 2 0 2
TITLE: Grants to Institutions to Encourage Minority Participation in Graduate Education

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: 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.

Item: Entry:

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.)

FORM APPROVED:
OMB NO.:
EXPIRATION DATE:

PART II
BUDGET INFORMATION

GRANTS TO INSTITUTIONS TO ENCOURAGE MINORITY PARTICIPATION IN GRADUATE EDUCATION

AWARDS MADE TO INSTITUTIONS UNDER THIS PROGRAM MUST BE USED EXCLUSIVELY TO PROVIDE DIRECT FELLOWSHIP AID. INCLUDE BELOW THE BREAKDOWN OF FEDERAL FUNDS REQUESTED FOR STUDENT EXPENSES:

	TOTAL COSTS
STUDENTS COST:*	
A. ROOM AND BOARD	
B. TRANSPORTATION	
C. TUITION	
D. OTHER APPLICABLE EXPENSES	
TOTAL FEDERAL REQUEST	
TOTAL NUMBER OF FELLOWSHIPS REQUESTED	
NUMBER OF WEEKS OF SEMINAR/INSTITUTE	

LIST ACADEMIC AREA or AREAS:
BEGINNING AND END DATES OF STUDENTS' FELLOWSHIP ACTIVITIES
INSTRUCTION.

* CALCULATE EACH STUDENT'S NEED-BASED STIPEND FOR APPLICABLE EXPENSES, INCLUDING ROOM AND BOARD, TRANSPORTATION AND TUITION FOR COURSES FOR WHICH CREDIT IS GIVEN, FOLLOWING THE PROCEDURES USED BY THE APPLICANT'S STUDENT FINANCIAL AID OFFICE. THE STUDENTS' NEED SHOULD BE CALCULATED PURSUANT TO PART F OF TITLE IV OF THE HIGHER EDUCATION ACT OF 1965, AS AMENDED.

INDICATE WITHIN THE TOTAL COST OF THE STUDENTS COST THE AMOUNTS CHARGED FOR EACH OF THE SPECIFIC CATEGORIES LISTED ABOVE.

B. TRANSPORTATION COSTS MAY INCLUDE THE COST OF ONE ROUND-TRIP FROM THE STUDENT'S RESIDENCE TO CAMPUS AND RETURN, IF APPLICABLE, AND OTHER TRAVEL REQUIRED AS PART OF THE PROGRAM OF STUDY.

NOTE: Public reporting burden for this collection of information is estimated to average four 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 Margaret B. Webster, Director of Information Management and Compliance Division, U.S. Department of Education, Washington, D.C., 20202-4651, and to the Office of Management and Budget, New Executive Office Building, Room 3002, Washington, D.C., Attention: James D. Houser.

INSTRUCTIONS FOR PART III-- Application Narrative

Before preparing the Application Narrative an applicant should read carefully the purpose of the program, description of the program and the selection criteria the Secretary uses to evaluate applications. Applicants should address the selection criteria in the order the criteria are listed in this application notice.

The narrative should encompass each function or activity for which funds are being requested.

1. Begin with a one-page Abstract; that is, a summary of the proposed project.

2. Include information regarding (a) the program of study to take the form of summer research internships, seminars, and other educational experiences; (b) the institution's plan for identifying and recruiting talented minority undergraduates; (c) the participation of faculty in the program and a detailed description of the research in which the students will be involved; and (d) a plan for the evaluation of the effectiveness of the program.

3. Applications should include a description of the financial need analysis system or method to be used in determining the level of each fellow's financial need-based stipends, room and board costs, transportation costs, and tuition for courses for which credit is given.

4. Include any other pertinent information that might assist the Secretary in reviewing the application.

Please limit the Application Narrative to no more than 25 double-spaced, typed pages or less (on one side only).

OMB Approval No. 0348-0040

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.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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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

SF 424B (4-88) Back

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.

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.

ED Form GCS-009, 6/88

[FR Doc. 88-26559 Filed 11-16-88; 8:45 am]
BILLING CODE 4000-01-C

federal register

Thursday
November 17, 1988

Part VII

Department of the Interior

Minerals Management Service

Outer Continental Shelf; Proposed Southern California Sale 95, Supplemental Call for Information and Nominations; Notice

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Proposed Southern California Sale 95
Supplemental Call for Information and Nominations

Purpose of Supplemental Call

As part of the Minerals Management Service's (MMS) analysis and planning for Southern California Outer Continental Shelf (OCS) Sale 95, all interested parties are invited to provide additional information on 17 blocks (see "Description of Area") in the Southern California Planning Area which were not included in the Sale 95 Call for Information and Nominations (Call) as published in the July 9, 1987, Federal Register. This information may assist the MMS and the Department of Defense (DOD) in ongoing discussions intended to establish appropriate multiple-use arrangements pursuant to a Memorandum of Agreement between the two Agencies.

Initial discussions with the DOD resulted in the exclusion from the original Call of several lease blocks thought to be in an area of potential conflict with national defense related activities. As a result of subsequent discussions, alternative approaches are being examined to better resolve these multiple-use issues. To assist in this analysis, the MMS is requesting information on 17 additional blocks, totaling an estimated 76,735 acres, not included in the Call for proposed Sale 95. Respondents who have an interest in nominating or commenting on this area are now requested to do so.

Use of Information from Supplemental Call

Information received in response to this Supplemental Call will be used to help assess the area for further study during the Sale 95 prelease process. Blocks considered for the Sale 95 proposal as a result of this Supplemental Call will be fully analyzed in the Environmental Impact Statement (EIS) being prepared for the proposed sale. A Notice of Intent to Prepare an EIS for Sale 95 was published in the Federal Register on July 9, 1987.

Description of Area

This Supplemental Call is targeted at the 17 blocks or portions of these blocks within the OCS Leasing Map 6C not included in the Sale 95 Call described in the following text and shown on the attached map. The area covered includes the following blocks:

All or portions of blocks: 2525, 2524, 2426, 2425, 2424, 2423, 2327, 2326, 2325, 2324, 2323, 2227, 2226, 2225, 2224, 2223, and 2222.

A copy of the Call published in the Federal Register on July 9, 1987, on pages 25956 through 25962, is available and will be forwarded free upon request from the Regional Supervisor, Office of Leasing and Environment, Minerals Management Service, Pacific Region, 1340 West 6th Street, Suite 244, Los Angeles, California, 90017, telephone number (213) 894-7107.

Instructions on Supplemental Call

Nominators are asked to designate any of the blocks covered by this Supplemental Call that they wish to have included in Sale 95. Expressions of interest should be as specific as possible and should be shown by outlining the area(s) of interest along block lines. A detailed list of whole and partial blocks nominated should be submitted to ensure correct interpretation of nominations. Although individual indications of interest are considered to be privileged and proprietary information, the names of persons or entities submitting indications of interest and/or comments will be a matter of public record.

Nominators should rank selected blocks according to the priority of their interest (high, medium, or low). The telephone number and name of a person to contact in the respondent's organization for additional information should be included. In addition, respondents with information (on the area covered by this Supplemental Call) that would assist in determining the scope of the EIS and in the preparation of the document are encouraged to submit comments. Comments may be used to point out potential conflicts and mitigation measures between offshore oil and gas activities; California coastal zone management policies as established by the California Coastal Act of 1976, as amended; and approved local coastal plans.

Respondents' nominations and/or comments must be submitted no later than 30 days following publication of this document in the Federal Register in envelopes labeled "Supplemental Call for Information and Nominations for Proposed Sale 95 - Southern California." Letters and maps should be submitted to the Regional Supervisor, Leasing and Environment, at the address stated under "Description of Area."

R E. Kallman

Robert E. Kallman

Director, Minerals Management Service

Nov ~~October~~ 10, 1988

Date

Approved:

James E Cason

Deputy James E. Cason

Assistant Secretary - Land and Minerals Management

11/10/88

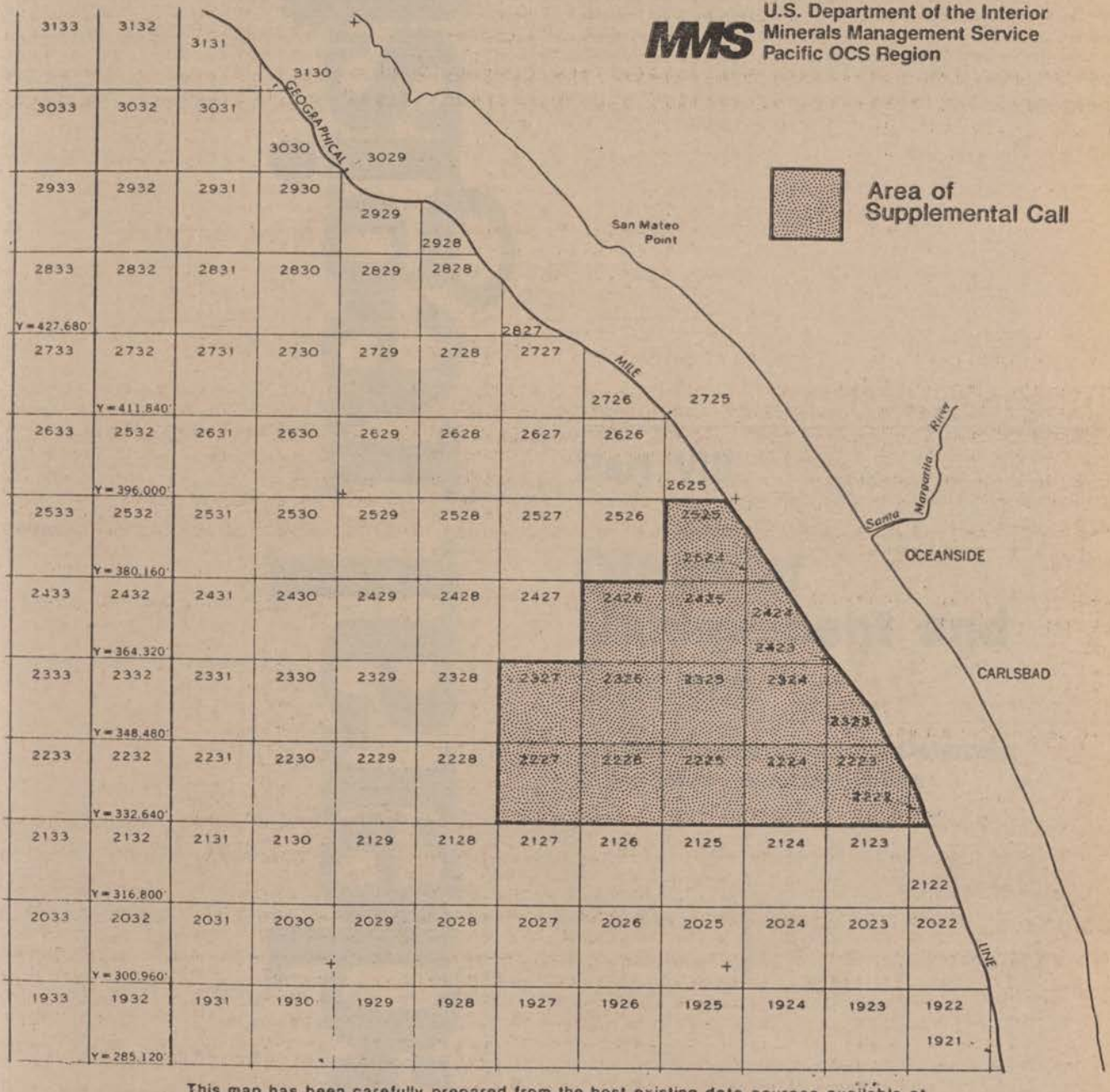
Date

Southern California Planning Area

LEASE SALE 95

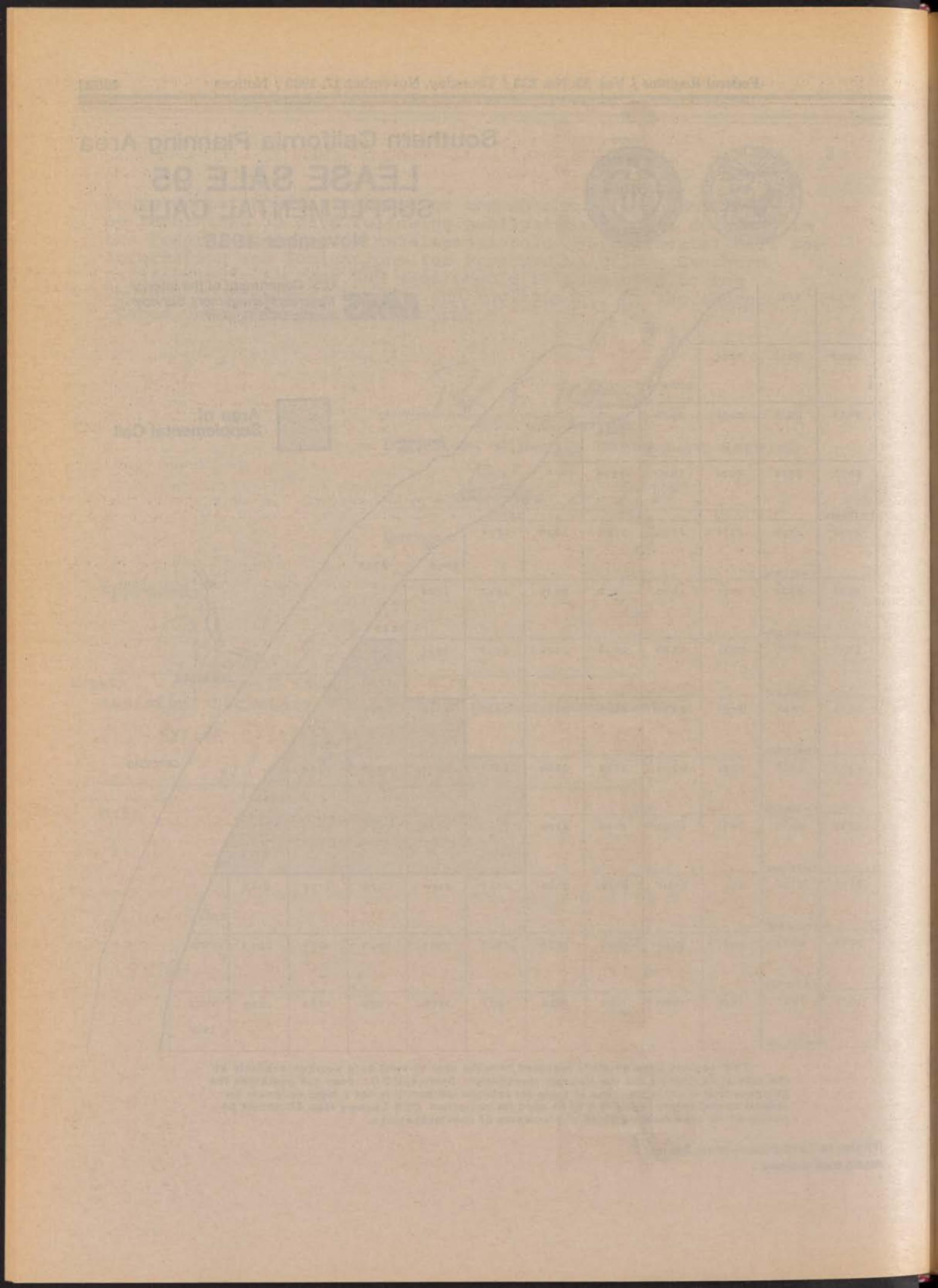
SUPPLEMENTAL CALL

November 1988



This map has been carefully prepared from the best existing data sources available at the time of its drafting, but the Minerals Management Service, U.S.D.I. does not guarantee the accuracy and is not responsible or liable for reliance thereon. It is not a legal document for federal leasing purposes nor is it to be used for navigation. OCS Leasing Map 6C should be consulted for area measurements and locations of individual blocks.

[FR Doc. 88-26605 Filed 11-16-88; 8:45 am]
BILLING CODE 4310-MR-C



federal register

Thursday
November 17, 1988

Part VIII

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Reports; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

November 1, 1988.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of November 1, 1988 of 10 deferrals contained in the first special message of FY 1989. There have been no rescissions proposed. This message was transmitted to the Congress on September 30, 1988.

Rescissions (Table A and Attachment A)

As of November 1, 1988, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of November 1, 1988, $1,762.5 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1989.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the Federal Registered listed below:

Vol. 53, FR p. 39879, Wednesday, October 12, 1988.

Joseph R. Wright, Jr.,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1989 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President.....	0
Accepted by the Congress.....	0
Rejected by the Congress.....	0
Pending before the Congress.....	0

****

TABLE B

STATUS OF 1989 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	2,024.2
Routine Executive releases through November 1, 1988 (OMB/Agency releases of $261.7 million and cumulative adjustments of $0)	-261.7
Overturned by the Congress.....	0
Currently before the Congress.....	1,762.5

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1989

As of November 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1989

As of November 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 11-1-88
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D89-1	592,760		09-30-88	255,500				337,260
Special Assistance for Central America									
Promotion of stability and security in Central America	D89-2	1,000		09-30-88					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D89-3	144,649		09-30-88					144,649
Cooperative work	D89-4	335,263		09-30-88					335,263
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D89-5	1,212		09-30-88	154				1,058
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Southwestern Power Administration, Operation and maintenance	D89-6	2,800		09-30-88					2,800
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction)	D89-7	6,745		09-30-88					6,745
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund	D89-8	90,000		09-30-88					90,000

Attachment B - Status of Deferrals - Fiscal Year 1989

As of November 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 11-1-88
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D89-9	26,135		09-30-88	6,001				20,134
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D89-10	823,608		09-30-88					823,608
TOTAL, DEFERRALS.....		2,024,171	0		261,654	0		0	1,762,517

[FR Doc. 88-26616 Filed 11-16-88; 8:45 am]

BILLING CODE 3110-01-C

Reader Aids

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INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 4333/Pub. L. 100-647
Technical and Miscellaneous Revenue Act of 1988. (Nov. 10, 1988; 102 Stat. 3342; 471 pages) Price: $13.00

H.R. 4362/Pub. L. 100-648
Recreation and Public Purposes Amendment Act of 1988. (Nov. 10, 1988; 102 Stat. 3813; 3 pages) Price: $1.00

H.R. 4445/Pub. L. 100-649
Undetectable Firearms Act of 1988. (Nov. 10, 1988; 102 Stat. 3816; 3 pages) Price: $1.00

H.R. 4879/Pub. L. 100-650
Management Interlocks Revision Act of 1988. (Nov. 10, 1988; 102 Stat. 3819; 3 pages) Price: $1.00

H.J. Res. 649/Pub. L. 100-651
Designating November 12, 1988, as "National Firefighters Day." (Nov. 10, 1988; 102 Stat. 3822; 1 page) Price: $1.00

S.J. Res. 395/Pub. L. 100-652
To designate January 4, 1989, as "National Commissioned Corps of the Public Health Service Centennial Day." (Nov. 10, 1988; 102 Stat. 3823; 2 pages) Price: $1.00

H.R. 4030/Pub. L. 100-653
To reauthorize and amend certain wildlife laws, and for other purposes. (Nov. 14, 1988; 102 Stat. 3825; 12 pages) Price: $1.00

H.R. 5102/Pub. L. 100-654
Federal Employees Health Benefits Amendments Act of 1988. (Nov. 14, 1988; 102 Stat. 3837; 12 pages) Price: $1.00

S.J. Res. 192/Pub. L. 100-655
To designate the month of October 1988, as "National AIDS Awareness and Prevention Month. (Nov. 14, 1988; 102 Stat. 3849; 4 pages) Price: $1.00